

TRACK RELOCATION AGREEMENT

THIS TRACK RELOCATION AGREEMENT (this "Agreement") is made and effective as of this ____ day of _____, 2010 ("Effective Date") by and among the **UNITED STATES SUGAR CORPORATION**, a Delaware corporation ("USSC"), **SBG FARMS, INC.**, a Florida corporation ("SBG"), **SOUTHERN GARDENS GROVES CORPORATION**, a Florida corporation ("SGGC"), and individually and collectively and jointly and severally with USSC and SBG, "Seller", **SOUTH CENTRAL FLORIDA EXPRESS, INC.**, a Florida corporation ("SCFE"), and the **SOUTH FLORIDA WATER MANAGEMENT DISTRICT**, a public corporation created under Chapter 373 of the Florida Statutes (the "District"). Seller, SCFE and District are each a "Party" and collectively are the "Parties". USSC and/or SCFE, as applicable, are sometimes referred to herein as "Railroad Owner".

A. Seller has conveyed fee simple title to certain real property located in Hendry and Palm Beach Counties, Florida, as more particularly described on **Exhibit A** attached hereto (the "District Property") pursuant to the terms of that certain Second Amended and Restated Agreement for Sale and Purchase dated _____, 2010 (the "ASP"). Pursuant to the ASP, the District also will receive certain purchase option and right of first refusal rights concerning additional real property located in Hendry, Glades and Palm Beach Counties, Florida (as defined in the ASP, the "Option Property").

B. USSC owns a railroad system, a portion of which is comprised of the real property described on **Exhibit B** attached hereto, which, together with the railroad track and all other improvements thereon, is referred to herein as the "USSC Railroad System".

C. Certain portions of the District Property are adjacent to the Railroad System (as defined herein) as described on **Exhibit D** attached hereto (the "Relocation Area").

D. In Section 19(j) of the ASP, the parties thereto agreed that in the event the District determines at any time and from time to time during the term of this Agreement that it is necessary for any portion of Railroad System to be removed in order for the District to construct one or more projects, all or a portion of which is to be located within an area abutting and adjacent to or inside the Relocation Area (each such project is herein referred to as a "Project" and each area where a project is located is herein referred to as a "Project Area"), the Parties shall cause the removal, relocation (except in certain circumstances described in **Section 2(b)** below) and transfer of portions of such Railroad System pursuant to the terms and conditions set forth herein.

NOW THEREFORE, the Parties, intending to be legally bound, and in consideration of the mutual covenants, promises and representations herein, agree that the above recitals are true and correct and incorporated herein by reference and agree to the following terms and conditions:

1. **DEFINED TERMS.** The following capitalized terms have the following meanings unless the context clearly requires otherwise, and capitalized terms not otherwise defined herein shall have the meaning given them in the ASP:

“Access Agreements” has the meaning set forth in Section 21.

“Affiliate” means, with respect to any Party, any other person or entity that (a) owns or controls, directly or indirectly, the Party, (b) is owned or controlled by the Party, or (c) is under common ownership or control with the Party, where “own” means ownership of [fifty] percent (50%) or more of the equity interests or rights to distributions on account of equity of the Party and “control” means the power to direct the management or policies of the Party, whether through the ownership of voting securities, by contract, or otherwise.

“Agreement” has the meaning set forth in the first paragraph, and includes the exhibits attached hereto, as it may be amended, modified, changed or restated in accordance with its terms.

“AREMA” means the American Railroad Engineering Maintenance Association.

“ASP” has the meaning set forth in the Recitals and includes the exhibits and schedules attached thereto, as it may be amended, modified, changed or restated in accordance with its terms.

“Board” means the Governing Board of the District.

“Cleanup Target Level” means: For all areas: shall be the groundwater criteria in Table I of Chapter 62-777 of the Florida Administrative Code, and for all environmental media other than groundwater, shall be the most stringent applicable concentration for the medium of concern identified in Table I or Table II of Chapter 62-777 of the Florida Administrative Code for either direct commercial/industrial exposure or leachability based on groundwater criteria, or an alternative leachability standard approved by the Florida Department of Environmental Protection; provided that sediment in a Class IV (Agricultural Water Supplies) body of water shall be considered soil and that sediment in a Class III body of water shall meet the Florida Department of Environmental Protection Guidelines for Florida Inland Waters (MacDonald et al, 2003). If no Soil Cleanup Target Level (“SCTL”), Groundwater Cleanup Target Level (“GCTL”), or Florida Surface Water Cleanup Target Level (“FSCTL”) exists in Table I or Table II of Chapter 62-777 of the Florida Administrative Code, the SCTL, GCTL or FSCTL for it shall be established in accordance with procedures in Chapter 62-777 for establishing an SCTL, GCTL, or FSCTL. A Cleanup Target Level may be achieved with the use of (1) a site specific risk assessment conducted pursuant to, as applicable, Chapter 62-770, 62-730, or 62-780 of the Florida Administrative Code; (2) Institutional Controls and/or Engineering Controls; and/or (3) natural attenuation, as follows:

(y) For the New Track Location:

(i) with regard to the use of Institutional Controls, the Parties hereby consent to restrictions that allow for railroad use, (ii) with regard to a site specific risk assessment, the Parties hereby consent to a site specific risk assessment that takes into account the future use of the New Track Location for railroad purposes, (iii) with regard to natural attenuation, the Parties hereby consent to same provided that FDEP concludes that it is reasonably likely to achieve the applicable Cleanup Target Level within five (5) years or within a longer period of time which is technically justifiable and is agreeable to FDEP, and (iv) with regard to Engineering Controls,

the Parties hereby consent to the same provided that FDEP approves of the same after the Effective Date.

(z) For the Existing Track Parcels, after the conveyance thereof to the District pursuant to **Section 8**:

(i) the District can use such site specific risk assessment, Institutional Controls, Engineering Controls and natural attenuation as are acceptable to it and FDEP.

The Cleanup Target Levels (SCTL, GCTL, and FSCTL), applicable herein for those matters subject to Remediation are those Cleanup Target Levels identified in Table I or Table II of Chapter 62-777 of the Florida Administrative Code that are in effect at the time Seller's/Railroad Owner's Estimated Cost to Perform Remediation is calculated, District's Estimated Cost to Perform Remediation is calculated, or the Remediation is performed, as applicable. If no Cleanup Target Levels identified in Table I or Table II of Chapter 62-777 are in effect, then the applicable Cleanup Target Levels shall be the successors thereto.

"**Completion**" has the meaning set forth in **Section 7(i)**.

"**Completion Notice**" has the meaning set forth in **Section 7(i)**.

"**Construction Standards**" means the criteria for design, planning, permitting, procuring, installation and construction of the New Track in accordance with the District Plan, applicable Railroad Approvals, applicable Specifications, applicable Governmental Laws, the Relocation Contracts, Prudent Industry Practice and **Section 10** hereof.

"**Curable Title Defects**" has the meaning set forth in **Section 4(a)**.

"**Dead-End Railroad System**" means the Dead End Track, together with the real property on which such Dead End Track is located or, to the extent already removed, on which such Dead End Track was located, and all improvements thereon.

"**Dead-End Track**" means any portion of the USSC Railroad System which as of the date of the District's issuance of a Notice of Intent, has been (i) with respect to the portion of the USSC Railroad System identified in such Notice of Intent, physically removed from a Project Area or physically dead-ended within a Project Area, such that the same does not connect or continue on to any other portion of the USSC Railroad System, or (ii) designated as "Dead-End Track" in a notice by USSC to the District. As of the Effective Date there is no Dead-End Track.

"**District**" has the meaning set forth in the first paragraph.

"**District Property New Track Parcel**" has the meaning set forth in **Section 3(d)**.

"**District Indemnitees**" has the meaning set forth in **Section 17(a)**.

"**District Project Manager**" means the person from time to time designated by the District as its project manager by notice to Railroad Owner whose communication with the Railroad Project Manager shall be binding on the District with respect to matters within his/her authority.

“District Plan” has the meaning set forth in **Section 3(a)**.

“District Property” has the meaning set forth in the Recitals.

“Due Diligence Period” has the meaning set forth in **Section 3(b)**.

“Effective Date” has the meaning set forth in the first paragraph.

“Engineering Control” has the meaning set forth in the ASP.

“Environmental Law” means shall mean any applicable federal, state, or local laws, statutes, ordinances, rules, regulations, orders, judgments, decrees or other governmental restrictions relating to, or regulating, governing or protecting human health or the environment.

“Environmental Standard” has the meaning set forth in the ASP.

“Existing Railroad System” has the meaning set forth in **Section 2(b)**.

“Existing Track Environmental Update” has the meaning set forth in **Section 4(f)**.

“Existing Track Parcel” means the land on which an Existing Railroad System is located.

“Existing Track Parcels Commitment” has the meaning set forth in **Section 4(a)**.

“Existing Track Parcels Environmental Report” has the meaning set forth in **Section 4(f)**.

“Existing Track Parcels Permitted Exceptions” has the meaning set forth in **Section 4(c)**.

“Existing Track Parcels Survey” has the meaning set forth in **Section 4(b)**.

“Existing Track Parcels Title Policy” has the meaning set forth in **Section 4(e)**.

“Expert” has the meaning set forth in **Section 20(b)(i)**.

“Facilities” has the meaning set forth in **Section 10**.

“FDEP” means the Florida Department of Environmental Protection and its successors.

“FDOT” means the Florida Department of Transportation and its successors.

“Final Inspection Period” has the meaning set forth in **Section 7(i)**.

“Force Majeure” means any event to the extent that it: (a) prevents or delays the affected Party from performing its obligations and/or exercising its rights under this Agreement; and (b) is unforeseeable and is beyond the reasonable control of and not the result of the fault, negligence, violation of law or willful misconduct of the affected Party or such affected Party’s contractors; and (c) could not have been prevented or avoided by the affected Party’s or its contractors by the exercise of reasonable diligence or Prudent Industry Practice, which event includes, without limitation, the following events or circumstances: (i) war, civil insurrection,

riots, sabotage or acts of terrorism; (ii) acts of God, including flash floods, tidal surges, hurricanes, tornadoes, typhoons, lightning strikes, earthquakes and the like; (iii) fire or explosion; (iv) governmental actions or omissions, including the suspension, termination, interruption, denial, delay in obtaining or failure of renewal or issuance of any permits, approvals or other authorizations of a Governmental Authority, provided that the affected party has timely submitted applications, information and data, given all notices, paid all fees, responded to requests for additional information or data and otherwise acted with due diligence in respect thereof; (v) epidemics, quarantines, embargoes or blockades; and (vi) strikes, other concerted labor actions or slowdowns which are not occurring exclusively at a site where work relating to the New Track System, or Remediation is being performed.

“FRA” means the Federal Railroad Administration and its successors.

“Government Authority(ies)” means any and all applicable national, federal, state, county, city, municipal, local or regional authorities, departments, commissions, branches, agencies, courts, tribunals, judicial authorities, legislative authorities, administrative authorities, regulatory authorities, or taxing authorities or other political subdivision thereof having jurisdiction over the Parties, a Project, the Option Property Railroad System, the Railroad System, the Relocation Corridor or District Property.

“Governmental Confirmation” has the meaning set forth in the ASP.

“Governmental Laws” shall mean any applicable federal, state, or local laws, statutes, ordinances, rules, regulations, orders, judgments, decrees or other governmental restrictions.

“Identified in BUYER’S Environmental Assessment” has the meaning set forth in the ASP.

“Inspection” has the meaning set forth in **Section 3(b)**.

“Institutional Control” has the meaning set forth in the ASP.

“Interest Rate” shall mean the lower of the rate per annum equal to the “prime rate” as published in the Wall Street Journal, Eastern Edition in effect on the date of payment plus 400 basis points, and calculated daily on the basis of a year of 365 days and the actual number of days elapsed and the maximum rate allowed by applicable law.

“Invoice Requirements” has the meaning set forth in **Exhibit G**.

“Lease” has the meaning set forth in the ASP.

“Liabilities” has the meaning set forth in **Section 17(a)**.

“Memorandum” has the meaning set forth in **Section 23**.

“New Track” means track structures necessary, as determined by the Relocation Committee, to provide service in replacement of Existing Railroad Track, including, as applicable, the bed, ballast, ties, rails, switches, sidings and elevators, adjacent service roads,

drainage facilities, crossings, crossing signals and related equipment, Facilities, sub-grade stabilization and other appurtenant and related facilities and improvements, all of which manufactured components shall be in new condition.

“New Track Location” has the meaning set forth in **Section 3(b)**.

“New Track Parcel(s)” means the real property located within the New Track Location.

“New Track Parcels Commitment” has the meaning set forth in **Section 3(c)(i)**.

“New Track Parcels Environmental Report” has the meaning set forth in **Section 3(b)**.

“New Track Parcels Permitted Exceptions” has the meaning set forth in **Section 3(c)**.

“New Track Parcels Survey” has the meaning set forth in **Section 3(c)(ii)**.

“New Track Parcels Title Policy” has the meaning set forth in **Section 3(c)(v)**.

“New Track System” means the New Track, together with the New Track Parcel(s).

“Non-Point Source of Pollutants” shall mean: (a) the widespread presence of Pollutants in soil in cultivated fields which resulted from the legal application of pesticides for which the FDEP is not authorized to institute proceedings against a property owner under Fla. Stat. § 487.081(6); (b) with regard to phosphorous and nitrogen in soils or groundwater, the widespread presence of Pollutants in cultivated fields which resulted from the application of fertilizers for which the FDEP is not authorized to institute proceedings against a property owner under Fla. Stat. § 576.045(4); (c) ambient agricultural contamination in cultivated fields in association with the normal application of fertilizer or (d) the presence of Pesticides or railroad tie preservatives (or their chemical degradation compounds) in, under or at the Existing Track Parcels at levels consistent with the general application of Pesticides at railroad track locations, and the customary use of railroad ties at railroad track locations.

“Notice of Environmental Dispute” means written notice: (1) stating whether Seller or Railroad Owner disputes that a Release of Pollutants exists and, with respect to a District Property New Track Parcel, whether Seller or Railroad Owner disputes that the Release was not Identified in BUYER’S Environmental Assessment, and if such a dispute exists, presenting the basis for it; and (2) stating whether Seller or Railroad Owner disputes the District’s Estimated Cost to Perform Remediation and, if such a dispute exists, presenting the basis for it, Seller’s or Railroad Owner’s good faith estimate for the cost of performing Remediation to address the Release of Pollutants (“Seller’s/Railroad Owner’s Estimated Cost to Perform Remediation”), and the basis for the calculation of Seller’s/Railroad Owner’s Estimated Cost to Perform Remediation.

“Notice of Intent” has the meaning set forth in **Section 3(a)**.

“Notice of Release of Pollutants” means written notice: (1) stating that a Release of Pollutants in excess of the Environmental Standard has been identified; (2) presenting a copy of an environmental report, including data, confirming that a Release of Pollutants exists; (3)

providing a good faith estimate for the cost of performing Remediation to address the Release of Pollutants (“District’s Estimated Cost to Perform Remediation”); and (4) providing the basis for the calculation of the District’s Estimated Cost to Perform Remediation.

“Notice of Third Party Owned New Track Parcel Environmental Objections” has the meaning set forth in **Section 3(f)**.

“Option” means the rights of the District under the ASP to acquire Option Property.

“Option Property” has the meaning set forth in the Recitals.

“Option Property Railroad System” means the USSC Option Property Railroad System and the SCFE Option Property Railroad System.

“Overhead” means any internal general, administrative, overhead, fixed or project management costs or expenses of Railroad Owner or an Affiliate, including any such internal costs or expenses paid or incurred in connection with the design, permitting, procurement, testing, installation, construction or Completion of any New Track System or the administration or performance of this Agreement, but excluding all out-of-pocket costs or expenses paid or incurred by Railroad Owner or an Affiliate in respect of services provided by a non-Affiliate in the performance of the obligations or exercise of the rights of Railroad Owner hereunder.

“Party” and “Parties” each has the respective meaning set forth in the first paragraph.

“Pesticides” has the meaning set forth in the ASP.

“Pollutant” shall mean any hazardous or toxic substance, material, or waste of any kind or any contaminant, pollutant, petroleum, petroleum product or petroleum by-product as defined or regulated by Environmental Laws.

“Person Responsible for Site Rehabilitation” has the meaning set forth in Environmental Laws.

“Procurement Plan” means the contractual arrangement for procurement of services by the District necessary to design, permit, procure, install and construct New Track.

“Project” has the meaning set forth in the Recitals.

“Project Area” has the meaning set forth in the Recitals.

“Proposed New Track Location” has the meaning set forth in **Section 3(a)**.

“Prudent Industry Practice” means those practices, acts, methods and standards generally engaged in or approved by a significant portion of the United States railroad industry and not limited to the optimum practice, act, method or standard, with respect to design, construction, operation, and maintenance of the applicable railroad systems that, in the exercise of reasonable judgment, would have been expected to accomplish the desired result in a manner consistent

with applicable Governmental Laws, the requirements of applicable Governmental Authorities, safety, environmental protection, local conditions, economy and efficiency.

“Railroad Approvals” means any and all land use and zoning approvals, construction, development and operational permits, certificates of occupancy (or the equivalent), USSTB Approval, and other permits and approvals required by all applicable Governmental Authorities, applicable private parties and all applicable Governmental Laws for the transfer of ownership of an Existing Railroad System and the Completion and transfer of ownership of a New Track System.

“Railroad Owner” has the meaning set forth in the first paragraph.

“Railroad Owner’s Expenses” has the meaning set forth in **Section 2(a)**.

“Railroad Project Manager” means the person from time to time designated by Railroad Owner as its project manager by notice to the District whose communication with the District Project Manager shall be binding on Railroad Owner with respect to matters within his/her authority.

“Railroad System” means the USSC Railroad System and/or the SCFE Railroad System, as applicable.

“Recorded Notice of Removal” has the meaning set forth in Section 11(a).

“Release” means Pollution as defined in § 376.301(37) of the Florida Statutes Annotated (provided that for purposes of this Agreement, “pollutants” in § 376.301(37) shall mean Pollutants as defined in this Agreement) and any spilling, leaking, pumping, pouring, emitting, emptying, discharging, injecting, escaping, leaching, dumping or disposing of Pollutants in soil, sediment, groundwater or surface water, but shall not include (a) the legal application of pesticides for which the FDEP is not authorized to institute proceedings against a property owner under Fla. Stat. §487.081(6), (b) the contamination of groundwater or surface water which is the result of the application of fertilizers for which the FDEP is not authorized to institute proceedings against a property owner under Fla. Stat. § 576.045(4), or (c) a Non-Point Source of Pollutants.

“Relocation Area” has the meaning set forth in the Recitals.

“Relocation Budget” means the budget for Relocation Expenses prepared in accordance with **Section 3(b)**.

“Relocation Committee” means the committee formed by the District and Railroad Owner with respect to the transfer of Existing Railroad System and construction of a New Track System, which shall consist of the District Project Manager (and/or his/her designee) and Railroad Project Manager (and/or his/her designee), for purposes of fact finding, coordination and exchange of information and documents regarding status and progress of work relating to the design, permitting, procurement, installation, constructing and operational testing in order to achieve Completion of any New Track System and transfer thereof to Railroad Owner, if applicable, and the transfer of ownership of an Existing Railroad System, which committee shall

meet no less frequently than monthly after the formation of the committee and upon the request of a Party, and which shall be disbanded upon conveyances of the New Track System (if applicable) and the Existing Railroad System pursuant to this Agreement.

“Relocation Contracts” has the meaning set forth in Section 7(a).

“Relocation Corridor” means, in the event that the District acquires all of the real property depicted in Exhibit J attached hereto (the “North/Central Property”) pursuant to the ASP, that certain five hundred foot (500') corridor of Option Property located immediately adjacent to and running the length of the perimeter boundary of the North/Central Property to the extent then owned by Seller, an Affiliate of Seller or any other owner of the Relocation Corridor that is bound by the Option during the Exclusive Option Period, at the time of the District’s acquisition of the North/Central Property. As there is no Relocation Corridor on the Effective Date, the term “Relocation Corridor” as used throughout this Agreement, shall have no force or effect, including, without limitation, any rights or obligations pertaining thereto, until the North/Central Property is acquired by the District pursuant to the ASP.

“Relocation Corridor New Track Parcel” has the meaning set forth in 3(f).

“Relocation Expenses” has the meaning set forth in Section 7(e).

“Remediation” means those steps taken, or that will be taken, to achieve the applicable Cleanup Target Level and obtain Governmental Confirmation.

“Requisition” has the meaning set forth in Section 7(h).

“SBG” has the meaning set forth in the first paragraph.

“SCFE” has the meaning set forth in the first paragraph.

“SCFE Option Property Railroad System” means those portions of the railroad systems owned by SCFE which are, from time to time, located within the perimeter boundaries of the Option Property, together with the real property located thereunder and all improvements thereon. The SCFE Option Property Railroad System, as it initially exists, is located on and inclusive of the real property described in Exhibit I attached hereto. In addition, the term “SCFE Option Property Railroad System” as used herein, shall also mean portions of the Option Property that are designated to be “SCFE Option Property Railroad System” in the future (i.e., right-of-way as to which track or other track improvements have not yet been constructed thereon), pursuant to a written notice delivered by Railroad Owner to the District prior to the District’s exercise of its Option over the applicable portion of the Option Property through which the right-of-way runs for such future railroad system.

“SCFE Railroad System” means those portions of the railroad system owned by SCFE, which are, from time to time, located within the perimeter boundaries of the Relocation Area, together with the railroad track and all other improvements thereon and the Transition Track, if applicable. As there is no SCFE Railroad System on the Effective Date, the term “SCFE Railroad System” as used throughout this Agreement shall have no force or effect, including, without limitation, any rights or obligations pertaining thereto, until a portion of the SCFE

Option Property Railroad System becomes included within the perimeter boundaries of the Option Property so acquired by the District pursuant to the ASP, whereupon the real property upon which the SCFE Railroad System is located shall be described on Exhibit C attached hereto.

"SCFE Specifications" means, with respect to a New Track System that replaces a portion of Existing Railroad System owned by SCFE, the higher of the following: (i) the specifications for a railroad system having Class III track standards and new 136 pound rail (pursuant to AREMA standards) on which trains are capable of operating at forty (40) miles per hour as prescribed by FRA in Chapter 49 of the Code of Federal Regulations, Parts 200 - 299, as same may be amended or replaced from time to time, (ii) specifications imposed by the exercise of Prudent Industry Practice as of the date of the initial issuance of the Notice of Intent for the applicable New Track System, or (iii) the specifications required by SCFE's then current and field implemented written design standards applicable to the Existing Railroad System owned by SCFE to be applied to the replacement of track as of the date of initial issuance of the Notice of Intent for the applicable New Track System.

"Seller" has the meaning set forth in the first paragraph.

"SGGC" has the meaning set forth in the first paragraph.

"Site Rehabilitation" shall have the meaning set forth in the ASP.

"Specifications" means the USSC Specifications and/or the SCFE Specifications, as applicable.

"Standards" has the meaning set forth in Section 3(a).

"Third Party Owned New Track Parcels" has the meaning set forth in 3(g).

"Transition Track" means, in the event that the District acquires all of the North/Central Property, the one-half mile length of SCFE Railroad System that extends from the southerly boundary of the North/Central Property, which is subject to relocation for purposes of transitioning New Track to connect with portions of the SCFE Railroad System. As there is no Transition Track on the Effective Date, the term "Transition Track" as used throughout this Agreement shall have no force or effect, including, without limitation, any rights or obligations pertaining thereto, until the North/Central Property is acquired by the District pursuant to the ASP.

"Upgrades" has the meaning set forth in Section 6(e).

"USEPA" means the United States Environmental Protection Agency and its successors.

"USACE" means the United States Corps of Engineers and its successors

"USDOT" means the United States Department of Transportation and its successors

"USSC" has the meaning set forth in the first paragraph.

"USSC Option Property Railroad System" means those portions of the railroad systems owned by USSC which are, from time to time, located within the perimeter boundaries of the Option Property, together with the real property located thereunder and all improvements thereon. The USSC Option Property Railroad System, as it initially exists, is located on and inclusive of the real property described in Exhibit H attached hereto. In addition, the term "USSC Option Property Railroad System" as used herein, shall also mean portions of the Option Property that are designated to be "USSC Option Property Railroad System" in the future (i.e., right of way as to which track or other track improvements have not yet been constructed thereon), pursuant to a written notice delivered by Railroad Owner to the District prior to the District's exercise of its Option over the applicable portion of the Option Property through which such right-of-way runs for such future railroad system.

"USSC Railroad System" has the meaning set forth in the Recitals.

"USSC Specifications" means with respect to a New Track System that replaces a portion of Existing Railroad System owned by USSC, the higher of the following: (i) the specifications for a railroad system having Class III track standards and new 115 pound rail (pursuant to AREMA standards) on which trains are capable of operating at forty (40) miles per hour as prescribed by FRA in Chapter 49 of the Code of Federal Regulations, Parts 200 - 299, as same may be amended or replaced from time to time, (ii) specifications imposed by the exercise of Prudent Industry Practice as of the date of the initial issuance of the Notice of Intent for the applicable New Track System, and (iii) the specifications required by USSC's then current and field implemented written design standards applicable to the Existing Railroad System owned by SCFE to be applied to the replacement of track as of the date of initial issuance of the Notice of Intent for the applicable New Track System.

"USSTB" means the U.S. Surface Transportation Board and its successors.

"USSTB Approval" means with respect to any transfer of an Existing Track System to District or a New Track System to SCFE, subject to the jurisdiction of the USSTB, the decision of the USSTB, which is administratively final and for which all appeal periods have expired, finding that the applicable portions of the existing SCFE Railroad System and the transfer of the New Track System, if applicable is either (a) authorized pursuant to the provisions of 49 U.S.C. §§ 10901 & 10903, or (b) is exempt from 49 U.S.C. §§ 10901 & 10903, as same may be amended or replaced from time to time.

2. REMOVAL AND RELOCATION.

(a) Track Relocation. The District has the right at any time and from time to time during the term of this Agreement to cause any portion of the Railroad System to be transferred to the District as follows: (i) the District reasonably determines that it is necessary for such portion of the Railroad System to be removed in order for a Project to be constructed; (ii) the District conveys a New Track System to Railroad Owner in accordance with Section 3 in exchange for the conveyance of the Existing Railroad System and the Existing Track Parcel unless such portion of the Existing Railroad System is Dead-End Track; (iii) the District, in accordance with its procurement policies and procedures and with the cooperation and support of Railroad Owner causes Completion of the New Track System, at the District's cost and expense,

except for (a) the costs of any Upgrades, (b) Curable Title Defects (c) Overhead and (d) costs and expenses of Railroad Owner not constituting Relocation Expenses (collectively, “Railroad Owner Expenses”); (iv) the District reimburses Railroad Owner for all Relocation Expenses; (v) Railroad Owner pays for all Railroad Owner Expenses; and (vi) Railroad Owner conveys fee simple title to the Existing Railroad System to the District in accordance with Section 8, after the Completion of the New Track System and in exchange for title to the New Track System. The Parties acknowledge that Railroad Owner shall have no obligation to remove all or any portion of the Existing Railroad System and any and all salvage value of such Existing Railroad System and any improvements on the Existing Track Parcel shall be for the sole benefit of the District.

(b) Existing Railroad System. Any portion of the Railroad System which (i) is Dead-End Railroad System, or (ii) is to be acquired by the District in accordance with the terms of this Agreement shall be referred to, individually and collectively, as “Existing Railroad System”. The District shall be entitled to cause the transfer of ownership of Dead-End Railroad System in accordance with the terms of this Agreement and without subsequent replacement or relocation of any Dead-End Railroad System. Fee simple title to a Dead-End Railroad System shall be conveyed to the District in accordance with Section 8 after approval of the District Plan, it being agreed that after the conveyance of the Dead-End Railroad System, the removal and disposal of Dead-End Track and any improvements thereon shall be at the District’s cost, but with the cooperation and assistance of Railroad Owner, and any and all salvage value of such removed Dead-End Track shall be for the sole benefit of the District. The District, with the support and assistance of Railroad Owner and its personnel, consultants and contractors (and with the direct involvement and payment of Railroad Owner with respect to Curable Title Defects affecting the Existing Railroad System or a New Track System to be located on a portion of the Relocation Corridor) will, consistent with Prudent Industry Practice, prepare and submit all applications Railroad Approvals necessary for the transfer of ownership of the Existing Railroad System.

(c) Coordination. Seller and SCFE each acknowledges and agrees that the replacement of any Existing Railroad System with New Track System and the connection of each segment of New Track to an existing railroad system will require the coordination and support of Seller and/or SCFE. Such support shall include but not be limited to (i) providing documents and information requested by the District, to the extent in the possession or reasonable control of Railroad Owner and reasonably useful for the design, permitting, procurement, construction and inter-connection of New Track System; (ii) providing reasonable access to the Railroad System and Option Property Railroad System and lands adjacent thereto for purposes of surveying, testing, measuring or otherwise performing activities related to the design, permitting, procurement, construction and interconnection of the New Track System or the removal of the Existing Railroad System, provided that the same does not unreasonably interfere with the operations of the Railroad System and the Option Property Railroad System and such adjacent lands and no invasive testing (e.g., water or soil sampling) may be performed prior to issuance of the Notice of Intent therefor; (iii) reasonable access to management and personnel of Railroad Owner and contractors, vendors and consultants engaged by USSC and/or SCFE for the original design, construction, operation, maintenance or repair of the Railroad System (to the extent the same are still engaged by USSC and/or SCFE); (iv) coordination of service and operations over the Railroad System and Option Property Railroad System to facilitate construction, inspection, testing and interconnection of New Track; and (v) the grants

of temporary easements, crossing rights, licenses and access rights reasonably necessary for performance of work related to construction of New Track Systems and/or removal of Existing Railroad Systems. The Parties, through the Relocation Committee, will exchange information regarding the scope, commencement, timing and sequence of activities and milestones related to the design, permitting, procurement and construction of New Track Systems, provided, however, that the District, shall determine the schedule for commencement of construction of any Project and New Track, if any, at its absolute and sole discretion. Subject to USSC and SCFE being Affiliates, USSC and SCFE agree that if an Existing Railroad System consists of portions of the USSC Railroad System and the SCFE Railroad System, they will designate a single Railroad Project Manager by notice to the District who shall be authorized to act as the representative of both USSC and SCFE for purposes of management and administration of this Agreement in respect of the removal of an Existing Railroad System and construction of a New Track System, coordination with the District and performance of the obligations and covenants of USSC and SCFE relating to such Existing Railroad System and, if applicable, New Track System.

3. NOTICE OF INTENT/LOCATION OF EXISTING RAILROAD SYSTEM/NEW TRACK SYSTEM.

(a) Proposed New Track Location. In order to effectuate the relocation and transfer (except as provided in Section 2(b) above) of any portion of Railroad System, the District shall give notice to Railroad Owner of such intent (the “Notice of Intent”). A Notice of Intent will not be issued by the District until after the design phase for the applicable phase of the Project necessitating relocation of the Railroad System is at least sixty percent (60%) completed and the Board has approved the budget for the relocation of such Railroad System. Each Notice of Intent issued by the District hereunder shall include (i) a description of the Project Area, (ii) a description of the Existing Railroad System, (iii) a proposed preliminary schedule and target date for transfer of the Existing Railroad System, (iv) contact information for the District’s Project Manager, and (v) with respect to relocation of the Existing Railroad System, (A) to the extent not inconsistent with the Standards (as defined below), the proposed location for relocation of the Existing Railroad System, which shall, if necessary to replace the Existing Track and to the extent reasonably available have a total width between 85 and 160 feet, unless otherwise required by Governmental Laws (as determined by the Railroad Relocation Committee, the “Proposed New Track Location”) and (B) the District’s proposed Procurement Plan (such information and documents provided by the District pursuant to (i) – (v) hereinafter referred to, collectively, as a “District Plan”). The Proposed New Track Location selected by the District shall (x) be reasonably suitable for construction of the New Track consistent with the Construction Standards, (y) be the most direct route reasonably practicable, taking into account project constraints (including but not limited to logistics, legal, permitting, design, engineering, construction, budgetary, cost, environmental, and schedule), in order to minimize any increased operating costs resulting therefrom, (y) not materially increase safety risks and liability for the Railroad Owner (collectively, the “Standards”). The District agrees that it will use good faith efforts to relocate the New Track to a location within the Relocation Area provided that the same will have no material adverse effect on the cost, schedule, permitting and standards for design, engineering, construction and operation of the Project or potential future Projects and is outside the configuration and boundaries of the Project. The schedule for commencement and completion of construction of New Track is reserved for the District in its absolute and sole discretion. In the event that at the time of initial issuance of the Notice of Intent, the applicable

New Track Location is within a portion of the Relocation Corridor that is then owned by Seller or an Affiliate or the Notice of Intent is given during the Exclusive Option Period, then Railroad Owner and Seller (either directly or by causing the Affiliate to negotiate) agree to negotiate reasonably with the District, on fair market terms (provided that if the Option is still in effect, the determination of the purchase price of the New Track Parcel shall be governed by the terms of Section 26 of the ASP), which terms shall (xx) reflect the value of any unharvested crops at the time of the conveyance, to accomplish the conveyance of an appropriate fee simple interest to District (directly or indirectly, as circumstances may warrant) for use as a New Track Parcel hereunder, (yy) include a reservation of easements by Seller over and across such New Track Parcel which are reasonably required by Seller to continue to access its property, which easements will not unreasonably interfere with construction or operation of the New Track and (zz) obligate Seller to eliminate title defects or encumbrances affecting the New Track Parcel consistent with the Railroad Owner's obligations to eliminate "Curable Title Defects" affecting Existing Track Parcels hereunder. The closing of any such purchase of a New Track Parcel from Seller or an Affiliate shall be scheduled and coordinated to occur after Railroad Owner and the District have evaluated and accepted such land as a New Track Parcel in accordance with **Section 3** hereof. In no event shall District have the right to commence construction of the New Track within the Relocation Corridor unless and until it has acquired the New Track Parcel(s) or the owner thereof, in its sole discretion, grants the District the right to commence work. The District agrees to use reasonable efforts to (A) advise Railroad Owner (through Railroad's Project Manager) that it has commenced the process to prepare the Notice of Intent and (B) allow Railroad Owner (through Railroad's Project Manager) an opportunity to participate in the process of the District formulating the various components of the Notice of Intent. The District may amend and modify or withdraw a Notice of Intent and District Plan at any time for any reason without obligation or liability to Seller and/or SCFE, except for reimbursement of Relocation Expenses incurred to date by Railroad Owner, provided, however, that the District shall not amend or modify the Notice of Intent or District Plan in a manner that would have a material adverse effect on Railroad Owner or that would violate the Standards. If the District notifies Railroad Owner of an intent to modify the Notice of Intent or District Plan in such a manner described above, the Parties shall meet and confer in good faith through the Relocation Committee for the purpose of addressing in an amended Notice of Intent any material adverse effect on Railroad Owner that would be caused thereby and the scope of any Inspections or due diligence activities to be conducted, if any, in accordance with **Section 3**.

(b) **Due Diligence.** The District and Railroad Owner shall promptly form a Relocation Committee relating to the Project not later than fifteen (15) days after the issuance of the Notice of Intent or such earlier date as reasonably requested by the District in a notice to Railroad Owner. The Relocation Committee shall promptly convene for purposes of considering and approving the District Plan, exchanging documents and information related to the Existing Railroad System and the Proposed New Track Location (unless the same is not required to be replaced under **Section 2(b)**), planning the scope, schedule and conduct of any Inspection, ascertaining the identity of any third parties whose consent, approval or other authorization might be required to be obtained, designating consultants and contractors to assist in performance of Inspection and agreeing upon a budget (subject to yearly approval and appropriation by the Board for each fiscal year) for Relocation Expenses (the "**Relocation Budget**"). The District and Railroad Owner shall (subject to the terms of the agreement(s) pursuant to which the District has been granted rights to access the Proposed New Track

Location if owned by a third party not an Affiliate of Seller or SCFE), have a period of ninety (90) days following delivery of the Notice of Intent ("Due Diligence Period") to perform in a coordinated and cost-efficient manner such inspections, tests, monitoring, assessments and studies, including, without limitation, environmental and geotechnical testing, of the Existing Railroad System and the Proposed New Track Location as is reasonably necessary and appropriate consistent with Prudent Industry Practice (the "Inspections"). Any environmental reports shall be prepared by a qualified environmental engineer (the "New Track Parcels Environmental Report"). The Inspections shall be at District's cost and expense. The Relocation Committee shall meet during the Due Diligence Period to evaluate and discuss the progress, findings and results of the Inspections and to finalize the other elements of the District Plan that are within the authority of the Relocation Committee. The Relocation Committee shall use reasonable good faith efforts to agree upon a coordinated scope and plan for the conduct of the Inspections of the Proposed New Track Location and the engineer, consultant or contractor to perform all or portions of the Inspection. If the Relocation Committee is unable for good cause to agree upon the engagement of a consultant to assist with the Inspection, Railroad Owner and the District shall each have the right during the Due Diligence Period to (i) conduct an inspection and assessment of the Proposed New Track Location in accordance with Prudent Industry Practice, (ii) obtain a New Track Parcels Environmental Report and (iii) obtain other reports as reasonably necessary to evaluate the suitability of the Proposed New Track Location for the construction and operation of the New Track System. The reasonable costs of all of such reports and inspections, whether the same are performed jointly or separately under this subparagraph (b), shall be borne by the District.

If within five (5) business days after the end of the Due Diligence Period, (x) the District does not withdraw its Notice of Intent by written notice to Railroad Owner or (y) if the Existing Railroad System is not Dead-End Track and Railroad Owner does not reject the Proposed New Track Location by notice to the District setting forth an explanation in reasonable detail as to why the Proposed New Track Location does not meet the Standards, then the Proposed New Track Location shall be deemed to be the "New Track Location". If the Relocation Committee is unable, despite reasonable good faith efforts, to timely agree upon a coordinated scope and plan for the conduct of the Inspections of the Proposed New Track Location or if the District is unable to obtain sufficient access to a Proposed New Track Location not owned by Seller or an Affiliate of Seller, and such inability to timely agree or gain sufficient access results in the inability of the Parties to complete the Inspections prior to the expiration of the Due Diligence Period, then the District shall have the right, exercisable prior to or within ninety (90) days after the expiration of the then-current Due Diligence Period, to extend the date of expiration of the Due Diligence Period by notice to Railroad Owner specifying the revised Due Diligence Period expiration date, until such time as such Inspections are complete. In the event that a Due Diligence Period expires prior to the completion of the Inspections and the District fails to exercise its right to extend the Due Diligence Period, Railroad Owner may reject the Proposed New Track Location by notice to the Railroad Owner within thirty (30) days thereafter. If the Relocation Committee cannot agree on elements of the District Plan within its authority or the Relocation Budget (subject to approval by the Board) or mutually acceptable modifications to either within ninety (90) days after delivery of the Notice of Intent, the Parties shall in good faith seek to resolve the dispute pursuant to Section 20 hereof. Railroad Owner and the District each agrees to provide access to the other, through the Relocation Committee, of copies of reports prepared by third party engineers, consultants and contractors on the basis of its Inspections of

the Proposed New Track Location if the District intends to implement the District Plan, all of which shall be certified to Railroad Owner and the District by such engineers, consultants and contractors at the District's cost and expense.

(c) New Track Parcels Title.

(i) New Track Parcels Title Commitment. Notwithstanding anything in this Agreement to the contrary, the interest in a particular New Track Location to be conveyed to Railroad Owner in exchange for Railroad Owner's fee simple interest in a particular Existing Track Parcel shall be a fee simple interest. Within sixty (60) days after issuance of the Notice of Intent, the District shall use commercially reasonable efforts to deliver to the District and Railroad Owner an ALTA owner's title insurance commitment, with Florida modifications, for the New Track Parcels for coverage in the amount of the full insurable value of the New Track Parcels, as specified by the Relocation Committee (the "New Track Parcels Commitment"). The New Track Parcels Commitment and the resulting title insurance shall be issued by the District's designated title insurance company and issuing agent, and the New Track Parcels Commitment expenses and related owner's title insurance policy premium shall be borne by the District. The New Track Parcels Commitment shall show the extent to which each New Track Parcel owner is vested with good and marketable and insurable title to the New Track Parcels and the extent to which such title is subject to liens, encumbrances, leases, tenancies, covenants, conditions, restrictions, rights of way, easements or other matters affecting title.

(ii) New Track Parcels Survey. Within the time period for providing the New Track Parcels Commitment, the District shall deliver to Railroad Owner at the District's sole cost and expense, a survey of the New Track Parcels, prepared by the District's designated surveyor, certified to the District, Railroad Owner the title company, and other entities requested by the District or the Railroad Owner (the "New Track Parcels Survey").

(iii) New Track Parcels Title and Survey Defects. Railroad Owner shall have thirty (30) days from the receipt of the later of the New Track Parcels Commitment or the New Track Parcels Survey, within which to examine same. If Railroad Owner reasonably finds title or survey matters which render title unmarketable or are otherwise inconsistent with the Standards, Railroad Owner shall, no later than the end of such thirty (30) day examination period, notify the District in writing specifying the defect(s) which may include, without limitation, objections to any Schedule B-1 Requirements or Schedule B-2 Exceptions that would customarily be satisfied/removed by a seller of real property (including, without limitation, any requirements/exceptions pertaining to construction liens). If Railroad Owner fails to give the District written notice of any title defect(s) or survey matters before the expiration of such thirty (30) day period, the defects and matters shown in the New Track Parcels Commitment or the New Track Parcels Survey shall be deemed to be permitted exceptions and waived by Railroad Owner as title and survey objections to the New Track Parcels in connection with the exchange of the New Track Parcels for the Existing Railroad System (the "New Track Parcels Permitted Exceptions").

(iv) Resolution of Title Defects. If Railroad Owner has given the District timely written notice of defects and matters as provided in Section 3(c)(iii) above, the District shall have up to ninety (90) days to attempt to cure such defects without any obligation to do so, it being agreed that the District shall have no obligation to cure any such defects or matters and shall have the right to discontinue any efforts at curing such defects at any time and shall have no obligations or liability to Railroad Owner as a result of not curing such defects other than reimbursement of Relocation Expenses incurred to date by Railroad Owner. If the District does not eliminate such defect(s) or address such matters within such ninety (90) day cure period and does not notify Railroad Owner of its intent to eliminate such defect(s) or address such matters for an additional ninety (90) days, Railroad Owner shall have the option to: (A) approve proceeding with such closing and thereafter in connection with the exchange of the New Track Parcel for the Existing Railroad System accept the title “as is” without claim against the District for such title defects, and such remaining defects shall be deemed to be New Track Parcels Permitted Exceptions; or (B) reject the New Track Parcel as provided in Section 3(c)(iii) above by providing written notice to the District within ten (10) days following the expiration of such ninety (90) day period, in which event, the District and Railroad Owner shall be released from all further obligations under this Agreement with respect to such proposed New Track Parcel, except for District’s reimbursement of Relocation Expenses incurred to date by Railroad Owner. If Railroad Owner does not provide the District written notice of its determination to reject the New Track Parcel as provided in Section 3(c)(iii) above within ten (10) days following the expiration of such ninety (90) day period, or if Railroad Owner approves in writing the District closing the acquisition of the New Track Parcel notwithstanding the existence of such remaining defects, Railroad Owner shall, for purposes of the exchange of the New Track Parcel for the Existing Railroad System, be deemed to have accepted title “as-is” in accordance with this subsection.

(v) New Track Parcels Title Insurance Policy. It shall be a condition precedent to Railroad Owner's obligation to close on Railroad Owner’s acquisition of the New Track Parcel and to convey any corresponding Existing Track Parcel to the District that the title company deliver to the Railroad Owner a marked-up New Track Parcels Commitment which binds the title insurance company to issue a title insurance policy in favor of Railroad Owner in accordance with the marked-up New Track Parcels Commitment with exceptions only for the New Track Parcels Permitted Exceptions (the “New Track Parcels Title Policy”). The District shall use reasonable efforts to cause the New Track Parcels Title Policy to be delivered to Railroad Owner within a commercially reasonable time period following closing of Railroad Owner’s acquisition of the New Track Parcels.

(d) New Track Parcels Environmental Issues for District Property. If during the construction of the New Track System located on District Property, the District reasonably finds that there has been a Release of Pollutants on, to or under a New Track Parcel which is located on District Property (“District Property New Track Parcel”) in excess of the Environmental Standard, or groundwater contamination that may be associated with Non-Point Source of Pollutants that exceeds the Natural Attenuation Default Concentrations established in Table V of Chapter 62-777, Florida Administrative Code and that were not Identified in

BUYER'S Environmental Assessment, the Parties' rights and obligations with respect to performance of Remediation relating to a District Property New Track Parcel will not be subject to the rights and obligations of the Parties under the Lease or Section 21(c) of the ASP, but instead will be subject to the rights and obligations under this Agreement and the District may, prior to Completion, deliver a Notice of Release of Pollutants to Seller solely with respect to Pollutants that were not Identified in BUYER'S Environmental Assessment, it being agreed that the District shall nevertheless remain responsible for the Remediation of the Pollutants Identified in BUYER'S Environmental Assessment pursuant to the ASP. Upon delivery of such Notice of Release of Pollutants, the Parties shall proceed according to Section 3(i). If, prior to Completion, the District fails to deliver a Notice of Release of Pollutants with respect to Pollutants that were not Identified in BUYER'S Environmental Assessment and that were discovered during construction of the New Track System located on District Property, then the District's right to raise any environmental objections based on matters identified during the construction of the New Track System located on District Property shall be deemed to be waived by the District.

(c) New Track Parcels Environmental Objections for the Relocation Corridor. If during the Due Diligence Period, the District reasonably finds that there has been a Release of Pollutants on, to or under a proposed New Track Parcel located in the Relocation Corridor ("Relocation Corridor New Track Parcel") in excess of the Environmental Standard, or groundwater contamination that may be associated with Non-Point Source of Pollutants that exceeds the Natural Attenuation Default Concentrations established in Table V of Chapter 62-777, Florida Administrative Code, or a Non-Point Source of Pollutants, the District shall no later than the end of the Due Diligence Period notify the Railroad Owner in writing that it (i) withdraws its proposal for location of a New Track System at the Relocation Corridor New Track Parcel, provided however that, the District shall reimburse to the Railroad Owner all reasonable costs, if any, incurred by Railroad Owner to perform Remediation of Non-Point Source of Pollutants at the Relocation Corridor New Track Parcel identified during sampling performed as part of Inspections and Due Diligence conducted pursuant to Section 3(b); or (ii) except as otherwise expressly provided in the second (2nd) sentence hereafter and subject to Seller's payment of the amount determined by the Environmental Neutral under Section 3(i), if applicable, and the District's right to withdraw a Notice of Intent pursuant to the other provisions of this Agreement, agrees that the Relocation Corridor New Track Parcel is to be sold and conveyed to the District, and purchased and accepted by the District in its present condition "AS IS" and "WITH ALL FAULTS" and that the District assumes (y) the risk for any Release of Pollutants and Non-Point Source of Pollutants on, to or under the Relocation Corridor New Track Parcel and, (z) the risk that all Releases of Pollutants and Non-Point Source of Pollutants may not have been revealed by its Inspections. If the District fails to give Railroad Owner the written notice described in clauses (i) or (ii) above during the Due Diligence Period, then, subject to the terms of the next sentence, the District shall be deemed to have waived its right to object to any environmental matters and the District shall accept the New Track Parcels located in the Relocation Corridor "AS IS" and "WITH ALL FAULTS" and the Railroad Owner shall assume the risk that all Releases of Pollutants may not have been revealed by its Inspection. If, after the expiration of the Due Diligence Period, but prior to the conveyance of the New Track System to Railroad Owner under Section 8(b) hereof, the District identifies a Release in excess of the Environmental Standard, or groundwater contamination that may be associated with Non-Point Source of Pollutants that exceeds the Natural Attenuation Default Concentrations established in

Table V of Chapter 62-777, Florida Administrative Code in the New Track Parcel during construction of the New Track System, the District may deliver a Notice of Release of Pollutants to Seller, whereupon the Parties shall proceed according to Section 3(i), it being agreed that the provisions of this sentence shall not survive the conveyance of the New Track System to Railroad Owner under Section 8(b) hereof and upon such conveyance the provisions of Sections 8(b)(x) and Sections 8(b)(y) shall be applicable. If the District proceeds with Remediation on a Relocation Corridor New Track Parcel, it shall have the Remediation accomplished in accordance with Environmental Law (at its cost) as the Person Responsible for Site Rehabilitation, shall secure all applicable Governmental Confirmations with respect to the Remediation, and shall provide a copy of such Governmental Confirmations to Railroad Owner upon receipt, it being agreed that the District shall be obligated to proceed with Remediation upon Seller's payment of the amount finally determined to be due under Section 3(i), provided, however, that in the event that the District withdraws its Notice of Intent pursuant to the other provisions of this Agreement, then the District shall refund to Seller the amount paid, if any, under Section 3(i) and the District shall have no obligation to proceed with such Remediation.

(f) New Track Parcels Environmental Objections for Third Party Owned Parcels. If during the Due Diligence Period, Railroad Owner reasonably finds that there has been a Release of Pollutants on, to or under a proposed New Track Parcel located on land owned by Third Parties ("Third Party Owned New Track Parcel") in excess of the Environmental Standard, or groundwater contamination that may be associated with Non-Point Source of Pollutants that exceeds the Natural Attenuation Default Concentrations established in Table V of Chapter 62-777, Florida Administrative Code, Railroad Owner shall, no later than the end of the Due Diligence Period, notify the District in writing specifying such environmental objections and providing a copy of the information that is the basis for such objections ("Notice of Third Party Owned New Track Parcel Environmental Objections"). If Railroad Owner fails to give the District written Notice of Third Party Owned New Track Environmental Objections before the expiration of the Due Diligence Period, any environmental objections based on matters identified during the Inspections of the Third Party Owned New Track Parcels shall be deemed to be waived and the Railroad Owner shall accept the Third Party Owned New Track Parcels "AS IS" and "WITH ALL FAULTS" and the Railroad Owner shall assume the risk that all Releases of Pollutants and Non-Point Source of Pollutants may not have been revealed by its Inspection.

(g) Remediation of Matters Identified in Railroad Owner's Notice of Third Party Owned New Track Parcel Environmental Objections. Within forty-five (45) business days of receipt of the Notice of Third Party Owned New Track Parcel Environmental Objections in accordance with Section 3(f), the District shall deliver written notice to Railroad Owner that it (i) accepts responsibility for Remediation of such Release of Pollutants identified in the Notice of Third Party Owned New Track Parcel Environmental Objections at its cost, or (ii) withdraws its proposal for location of a New Track System on the Third Party Owned New Track Parcels. If the District fails to give Railroad Owner the written notice described in clauses (i) or (ii) above within such 45-day period, District shall be deemed to have elected clause (i) above. If the District elects to perform Remediation of such Release of Pollutants described in Railroad Owner's Notice of Third Party Owned New Track Parcel Environmental Objections, the District shall have the Remediation accomplished in accordance with Environmental Law (at its cost) as the Person Responsible for Site Rehabilitation, shall secure all applicable Governmental Confirmations with respect to the Remediation, and shall provide a copy of such Governmental

Confirmations to Railroad Owner upon receipt. Nothing in this subsection shall modify or limit the District's right to withdraw a Notice of Intent pursuant to the other provisions of this Agreement.

(h) Unless waived in writing by Railroad Owner, in no event shall Railroad Owner be obligated to close on a District Property New Track Parcel or Relocation Corridor New Track Parcel or Third Party Owned New Track Parcel under Section 8 unless and until all Remediation required under this Section 3 for commencement of operation of the New Track has been completed in order to allow operations to commence on the New Track in accordance with Environmental Laws; such Remediation does not include events or activities that can occur or be completed after operations have commenced on the New Track in accordance with Environmental Laws.

(i) Environmental Dispute Resolution Provision:

(i) In the event the District delivers to Seller a Notice of Release of Pollutants, then within (15) fifteen business days following the delivery, if the Seller disputes either that a Release of Pollutants in excess of the Environmental Standard exists and/or disputes the District's Estimated Cost to Perform Remediation, Seller shall deliver to the District the Notice of Environmental Dispute. If Seller does not deliver to the District the Notice of Environmental Dispute within (15) business days following the District's delivery of the Notice of Release of Pollutants, Seller will pay to the District one hundred and thirty percent (130%) of District's Estimated Cost to Perform Remediation and the District shall perform the Remediation of the Release of Pollutants in accordance with Environmental Law as the Person Responsible for Site Rehabilitation, and will secure all applicable Governmental Confirmations with respect thereto, and Seller shall have no further obligation or liability with respect to the Release of Pollutants in the Notice of Release of Pollutants.

(ii) Within (10) ten business days of Seller's delivery to the District of the Notice of Environmental Dispute, representatives of the District and Seller with settlement authority shall meet to attempt to negotiate how much, if any, Seller will pay the District in response to the Notice of Release of Pollutants. Within (45) forty-five business days of Seller's delivery to the District of the Notice of Environmental Dispute, if the District and Seller are unable to resolve their dispute about how much, if any, Seller will pay the District in response to the Notice of Release of Pollutants, then the Parties shall exchange the name and professional credentials of one individual each, from an environmental consulting firm, that each party chooses as its representative ("Environmental Representative") to select an individual from another environmental consulting firm to determine what, if any, payment Seller shall make in response to the Notice of Release of Pollutants ("Environmental Neutral"). Within ten (10) business days of each Parties' selection of an Environmental Representative, the Environmental Representatives shall meet and select a third individual from an environmental consulting firm that has not provided services to either Party within the past five (5) years to serve as the Environmental Neutral. Promptly upon making such selection, the Environmental Representatives shall deliver written notice to the District and Seller of who has been selected as the Environmental Neutral. After the Environmental Neutral is selected,

neither the District nor Seller shall contact the Environmental Neutral except as set forth in this Agreement.

(iii) Within ten (10) business days of the selection of the Environmental Neutral, the Seller and District shall jointly: (a) call the Environmental Neutral to notify him that he has been selected to resolve the Notice of Environmental Dispute and the dispute about how much, if any, Seller shall pay the District in response to the Notice of Release of Pollutants and to schedule a meeting within thirty (30) business days (“Environmental Hearing”); and (b) send the Environmental Neutral the Notice of Release of Pollutants, the Notice of Environmental Dispute, and any written comments the District or Seller choose to provide about those documents.

(iv) At the Environmental Hearing, the District and the Seller shall each present their explanation of, and basis for, the amount, if any, Seller shall pay the District in response to the Notice of Release of Pollutants. The Environmental Neutral may question the Parties.

(v) Within ten (10) business days after the Environmental Hearing, the Environmental Neutral shall send the District and Seller written notice of the amount, if any, he has determined the Seller shall pay the District. If the Environmental Neutral determines that a payment should be made, it must be a number within the range of the District’s Estimated Cost to Perform Remediation and the Seller’s/Railroad Owner’s Estimated Cost to Perform Remediation. Within ten (10) business days of receiving such notice, if such notice identifies an amount for Seller to pay the District, Seller shall pay one hundred and thirty percent (130%) of such amount to the District and the District shall perform the Remediation of the Release of Pollutants in accordance with Environmental Law as the Person Responsible for Site Rehabilitation, and will secure all applicable Governmental Confirmations with respect thereto, and Seller shall have no further obligation or liability with respect to the Release of Pollutants in the Notice of Release of Pollutants. As an alternative to such payment, Railroad Owner and the District may agree to credit against any payment obligation of the District to Railroad Owner an amount equal to such payment. The Environmental Neutral’s determination shall be binding upon the Parties. Each Party shall bear its own fees and expenses with respect to the dispute resolution procedures and the District, on the one hand, and SCFE and Seller, as applicable, on the other hand, shall each pay fifty percent (50%) of the fees and expenses of any Environmental Neutral.

(j) Institutional Control. Railroad Owner agrees that prior to any sale or transfer by Railroad Owner of all or a portion of the New Track Location containing levels of Pollutants above the applicable residential level set forth in Chapter 62-777 and Chapter 62-780, Florida Administrative Code, from and after the closing on the New Track Location, Railroad Owner will record an Institutional Control against all or such portion of the New Track Location in favor of the District that will be binding upon and run with the land and will limit the use of all or such portion of the New Track Location to agricultural, commercial and industrial land uses, including, but not limited to, as classified by the NAICS and referenced in the FDEP’s Institutional Controls Procedures Guidance dated November 2004. Notwithstanding the foregoing, in the event that Railroad Owner does not comply with the above, then Railroad

Owner shall be deemed to have breached its obligations under this subsection and the District shall have all rights and remedies provided under this Agreement as a result thereof.

4. EXISTING TRACK PARCEL.

(a) Existing Track Parcels Commitment. Within sixty (60) days after issuance of the Notice of Intent, the District shall use commercially reasonable efforts to deliver to the District and Railroad Owner an ALTA owner's title insurance commitment, with Florida modifications, for the Existing Track Parcels for coverage in the amount of the full insurable value of the Existing Track Parcels, as specified by the District (the "Existing Track Parcels Commitment"). The Existing Track Parcels Commitment and the resulting title insurance shall be issued by the District's designated title insurance company and issuing agent, and the Existing Track Parcels Commitment expenses and related owner's title insurance policy premium shall be borne by the District. The Existing Track Parcels Commitment shall show the extent to which Railroad Owner is vested with good and marketable and insurable fee simple title to the Existing Track Parcels, and the extent to which such title is subject to liens, encumbrances, leases, tenancies, covenants, conditions, restrictions, rights of way, easements or other matters affecting title.

(b) Existing Track Parcels Survey. Within the time period for providing the Existing Track Parcels Commitment, the District shall obtain, at the District's sole cost and expense, a survey of the Existing Track Parcels, prepared by the District's designated surveyor, certified to the District, Railroad Owner, the title company, and other entity requested by the District or Railroad Owner (the "Existing Track Parcels Survey").

(c) Existing Track Parcels Title and Survey Defects. The District shall have thirty (30) days from receipt of the later of the Existing Track Parcels Commitment or the Existing Track Parcels Survey within which to examine the same. If the District reasonably finds title defects or survey matters to be unsuitable for the construction, operation or maintenance of the Project, the District shall, no later than the end of such thirty (30) day examination period, notify Railroad Owner in writing specifying the defect(s) or survey matters, which may include, without limitation, objections to any Schedule B-1 Requirements or Schedule B-2 Exceptions that would customarily be satisfied/removed by a seller of real property. If the District fails to give Railroad Owner written notice of any title defect(s) before the expiration of such thirty (30) day period, the defects shown in the Existing Track Parcels Commitment or the Existing Track Parcels Survey, excluding Curable Title Defects, shall be deemed to be permitted exceptions and waived by the District as title objections to the Existing Track Parcels in connection with the exchange of the Existing Track Parcels for the New Track System (the "Existing Track Parcels Permitted Exceptions").

(d) Resolution of Title Defects. If the District has given Railroad Owner timely written notice of defect(s) pursuant to Section 4(c), Railroad Owner shall have up to ninety (90) days to attempt to cure such defect(s), and Railroad Owner agrees to use commercially reasonable efforts to accomplish such cure and to provide reports to the District on a weekly basis and upon request by the District with respect to the actions that have been taken and remain to be taken in order to effect the cure. Any such costs and expenses incurred by Railroad Owner in connection therewith, other than costs and expenses of curing Curable Title

Defects, shall be Relocation Expenses hereunder (to the extent included in the Relocation Budget). If Railroad Owner does not eliminate such defect(s) within such ninety (90) day cure period or such longer period of time as Railroad Owner and the District may agree upon is reasonably necessary under the circumstances to effect the cure, the District, without waiving any rights or remedies hereunder, shall have the option to: (A) proceed with the exchange of the New Track Location for the Existing Railroad System and accept the title "as is" without claim against Railroad Owner for such title defects, and such remaining defects shall be deemed to be Existing Track Parcels Permitted Exceptions; or (B) reject the Existing Track Parcel by providing written notice to Railroad Owner in which event, both the District and Railroad Owner shall be released from all further obligations under this Agreement with respect to such proposed Existing Track Parcel, except for the reimbursement by District of Relocation Expenses incurred to date by Railroad Owner. If the District does not provide Railroad Owner written notice of its determination to reject the Existing Track Parcel within ten (10) days following the expiration of such ninety (90) day period, or if the District proceeds with the closing of its acquisition of the Existing Track Parcel notwithstanding the existence of such remaining defects, the District shall for purposes of the exchange of the Existing Track Parcel for the New Track Location, be deemed to have accepted title "as-is" in accordance with this subsection. Railroad Owner's duty and obligation to cure any title defects and survey matters shall be as expressly set forth in this Agreement, and, subject to Railroad Owner's obligation to satisfy Curable Title Defects at its expense, to the extent Railroad Owner, in response to a directive of the District to take certain specified action to cure any title defects or address any survey matters, incurs costs and expenses, such costs and expenses shall be Relocation Expenses hereunder to the extent and up to the limit of the amount directed by the District pursuant to an amendment to the Relocation Budget. Notwithstanding anything in this Agreement to the contrary, Existing Track Parcels Permitted Exceptions shall not include, and Railroad Owner, at its sole cost and expense, shall be absolutely obligated to satisfy, discharge or release of record or insure over at or prior to the closing the following matters (collectively the "Curable Title Defects"): (A) any and all mortgages, consensual liens (i.e., signed by the appropriate Railroad Owner), construction liens filed under Chapter 713, F.S., Notices of Commencement (as defined in Section 713.01(22), Florida Statutes) and final and unappealable liquidated judgments as to which a Railroad Owner has been duly served (i.e., not a default judgment without notice), all regardless of amount, which encumber the Existing Track Parcel and (B) any liquidated default judgments and other liens with respect to the Existing Track Parcels to which the fixed amount to discharge the same can be ascertained from the face of the lien instrument, all up to an aggregate amount of \$25,000.00, in each case, without any obligation to commence any action or proceeding in connection therewith unless requested by the District by notice (in which case the costs of such action or proceeding so requested shall be Relocation Expenses hereunder subject to the Relocation Budget).

(e) Existing Track Parcels Title Insurance Policy. At closing of the District's acquisition of the Existing Track Parcels, Railroad Owner shall satisfy all Curable Title Defects and shall provide title affidavits in customary form and customary resolutions and authorizations as reasonably necessary to cause the title company to deliver to the District a marked-up Existing Track Parcels Commitment which binds the title insurance company to issue a title insurance policy in accordance with the marked-up Existing Track Parcels Commitment with exceptions only for the Existing Parcels Permitted Exceptions (the "Existing Track Parcels Title Policy"), at

District's sole cost and expense, subject to Railroad Owner's obligation to satisfy Curable Title Defects at its expense.

(f) Existing Track Parcels Environmental Report. Within the Due Diligence Period, the District shall have the right to conduct an environmental assessment of the Existing Track Parcels to ascertain the existence of any Release, Non-Point Source of Pollutants or other environmental condition and the suitability of the Existing Track Parcels for the construction, operation and maintenance of the respective Project and deliver to Railroad Owner a copy, at the District's sole cost and expense, of environmental assessment reports and any other report, assessment or evaluation of the Existing Track Parcels reasonably necessary or appropriate under the circumstances, prepared by the District's designated environmental engineer (the "Existing Track Parcels Environmental Report"). In addition, prior to the conveyance of the applicable Existing Track Parcels to the District pursuant to Section 8 hereof, the District shall have the right to update the Existing Track Parcels Environmental Report (the "Existing Track Environmental Update").

(g) Existing Track Parcels Environmental Objections. If during the Due Diligence Period, the District reasonably finds that there has been a Release of Pollutants on, to, or under the Existing Track Parcels in excess of the Environmental Standard or groundwater contamination that may be associated with Non-Point Source of Pollutants that exceeds the Natural Attenuation Default Concentrations established in Table V of Chapter 62-777, Florida Administrative Code, or a Non-Point Source of Pollutants, the District shall, no later than the expiration of the Due Diligence Period, notify the Railroad Owner in writing that it (i) withdraws its proposal for location of a Project at the Existing Track Parcels, provided however that, the District shall reimburse to the Railroad Owner all reasonable costs, if any, incurred by Railroad Owner, to perform Remediation of Non-Point Source of Pollutants at the Existing Track Parcels identified during sampling performed as part of the Inspections and Due Diligence conducted pursuant to Section 3(b); or (ii) agrees, subject to the provisions of the next sentence, Railroad Owner's payment of the amount determined by the Environmental Neutral under Section 4(h), if applicable, and the District's right to withdraw a Notice of Intent pursuant to the other provisions of this Agreement, that the Existing Track Parcels are to be sold and conveyed to the District, and purchased and accepted by the District in their present condition "AS IS" and "WITH ALL FAULTS" and that the District assumes (y) the risk for any Release of Pollutants and Non-Point Source of Pollutants on, to or under the Existing Track Parcels and, (z) the risk that all Releases of Pollutants and Non-Point Source of Pollutants may not have been revealed by its Inspections. If the District fails to give Railroad Owner the written notice described in clauses (i) or (ii) above within the Due Diligence Period, the District shall be deemed to have elected clause (ii) above, provided, however, that, prior to the conveyance of the Existing Track Parcel pursuant to Section 8, the District shall have the right to obtain an Existing Track Environmental Update. If the District elects to acquire an Existing Track Parcel on or under which, during the Due Diligence Period or in an Existing Track Environmental Update, it has identified a Release of Pollutants in excess of the Environmental Standard, or groundwater contamination that may be associated with Non-Point Source of Pollutants that exceeds the Natural Attenuation Default Concentrations established in Table V of Chapter 62-777, Florida Administrative Code, the District may, during the Due Diligence Period or, in the event of an Existing Track Environmental Update, prior to the conveyance of the Existing Track Parcel to the District pursuant to Section 8, as applicable, deliver a Notice of Release of Pollutants to Railroad Owner, whereupon the Parties shall proceed

according to Section 4(h), it being agreed that, after the conveyance of the Existing Track Parcel to the District pursuant to Section 8, the District shall no longer have the right to provide the notice described in this sentence and upon the conveyance of the Existing Track Parcels to the District under Section 8 hereof, the provisions of Sections 8(b)(x) and Sections 8(b)(y) shall be applicable. If the District elects to proceed with Remediation at the Existing Track Parcels, the District shall have the Remediation accomplished in accordance with Environmental Law (at its cost) as the Person Responsible for Site Rehabilitation, shall secure all applicable Governmental Confirmations with respect to the Remediation, and shall provide a copy of such Governmental Confirmations to Railroad Owner upon receipt, it being agreed that the District shall be obligated to proceed with Remediation upon Railroad Owner's payment of the amount finally determined to be due under Section 4(h), provided, however, that in the event that the District withdraws its Notice of Intent pursuant to the other provisions of this Agreement, then the District shall refund to Railroad Owner the amount paid, if any, under Section 4(h) and the District shall have no obligation to perform such Remediation.

(h) Environmental Dispute Resolution Provision:

(i) In the event the District delivers to Railroad Owner a Notice of Release of Pollutants, then within (15) fifteen business days following the delivery, if the Railroad Owner disputes either that a Release of Pollutants exists and/or disputes the District's Estimated Cost to Perform Remediation, Railroad Owner shall deliver to the District the Notice of Environmental Dispute. If Railroad Owner does not deliver to the District the Notice of Environmental Dispute within (15) business days following the District's delivery of the Notice of a Release of Pollutants, Railroad Owner will pay to the District one hundred and thirty percent (130%) of District's Estimated Cost to Perform Remediation and the District shall perform the Remediation of the Release of Pollutants in accordance with Environmental Law as the Person Responsible for Site Rehabilitation, and will secure all applicable Governmental Confirmations with respect thereto, and Railroad Owner shall have no further obligation or liability with respect to the Release of Pollutants in the Notice of Release of Pollutants.

(ii) Within (10) ten business days of Railroad Owner's delivery to the District of the Notice of Environmental Dispute, representatives of the District and Railroad Owner with settlement authority shall meet to attempt to negotiate how much, if any, Railroad Owner will pay the District in response to the Notice of Release of Pollutants. Within (45) forty-five business days of Railroad Owner's delivery to the District of the Notice of Environmental Dispute, if the District and Railroad Owner are unable to resolve their dispute about how much, if any, Railroad Owner will pay the District in response to the Notice of Release of Pollutants, then the Parties shall exchange the name and professional credentials of one individual each, from an environmental consulting firm, that each party chooses as its representative ("Environmental Representative") to select an individual from another environmental consulting firm to determine what, if any, payment Railroad Owner shall make in response to the Notice of a Release of Pollutants ("Environmental Neutral"). Within ten (10) business days of each Parties' selection of an Environmental Representative, the Environmental Representatives shall meet and select a third individual from an environmental consulting firm that has not provided services to either Party within the past five (5) years to serve as

the Environmental Neutral. Promptly upon making such selection, the Environmental Representatives shall deliver written notice to the District and Railroad Owner of who has been selected as the Environmental Neutral. After determining the individual proposed to serve as the Environmental Neutral, neither the District nor Railroad Owner shall contact the Environmental Neutral except as set forth in this Agreement.

(iii) Within ten (10) business days of the selection of the Environmental Neutral, the Railroad Owner and District shall jointly: (a) call the Environmental Neutral to notify him that he has been selected to resolve the Notice of Environmental Dispute and the dispute about how much, if any, Railroad Owner shall pay the District in response to the Notice of a Release of Pollutants and to schedule a meeting within thirty (30) business days ("Environmental Hearing"); and (b) send the Environmental Neutral the Notice of a Release of Pollutants, the Notice of Environmental Dispute, and any written comments the District or Railroad Owner choose to provide about those documents.

(iv) At the Environmental Hearing, the District and the Railroad Owner shall each present their explanation of, and basis for, the amount, if any, Railroad Owner shall pay the District in response to the Notice of Release of Pollutants. The Environmental Neutral may question the Parties.

(v) Within ten (10) business days after the Environmental Hearing, the Environmental Neutral shall send the District and Railroad Owner written notice of the amount, if any, he has determined the Railroad Owner shall pay the District. If the Environmental Neutral determines that a payment should be made, it must be a number within the range of the District's Estimated Cost to Perform Remediation and the Seller's/Railroad Owner's Estimated Cost to Perform Remediation. Within ten (10) business days of receiving such notice, if such notice identifies an amount for Railroad Owner to pay the District, Railroad Owner shall pay one hundred and thirty percent (130%) of such amount to the District and the District shall perform the Remediation of the Release of Pollutants in accordance with Environmental Law as the Person Responsible for Site Rehabilitation, and will secure all applicable Governmental Confirmations with respect thereto, and Railroad Owner shall have no further obligation or liability with respect to the Release of Pollutants in the Notice of Release of Pollutants. The Environmental Neutral's determination shall be binding upon the Parties. Each Party shall bear its own fees and expenses with respect to the dispute resolution proceedings and the District, on the one hand, and SCFE and Railroad Owner, as applicable, on the other hand, shall each pay fifty percent (50%) of the fees and expenses of any Environmental Neutral.

(i) Institutional Control. The District agrees that prior to any sale or transfer by the District of all or a portion of the Existing Railroad System containing levels of Pollutants above the applicable residential level set forth in Chapter 62-777 and Chapter 62-780, Florida Administrative Code, District will record an Institutional Control against all or such portion of such premises in favor of Railroad Owner that will be binding upon and run with the land and will limit the use of all or such portion of the Existing Railroad System to agricultural, commercial and industrial land uses including, but not limited to, as classified by the NAICS and

referenced in the FDEP's Institutional Controls Procedures Guidance dated November 2004. Notwithstanding the foregoing, in the event that District does not comply with the above, then District shall be deemed to have breached its obligations under this subsection and Railroad Owner shall have all rights and remedies provided under this Agreement as a result thereof.

(j) Reimbursement for Withdrawal of Relocation Corridor New Track Parcels or Existing Track Parcels from a Notice of Intent. Notwithstanding anything in this Agreement to the contrary, if, at any time, the District withdraws or modifies its Notice of Intent pursuant to the terms of this Agreement, the District shall reimburse to Seller or Railroad Owner, as applicable, all reasonable costs, if any, incurred by Seller or Railroad Owner, as applicable, to perform Remediation of Non-Point Source of Pollutants identified during sampling performed as part of Inspections and Due Diligence conducted pursuant to Section 3(b) or an Existing Track Environmental Update, at the Relocation Corridor New Track Parcel or Existing Track Parcel that is no longer subject to the Notice of Intent as a result of such withdrawal or modification.

5. RAILROAD APPROVALS.

(a) Railroad Approval Applications. After the District Plan is finalized pursuant to Section 3 above or in connection with resolution of any dispute relating thereto which results in the District Plan being finalized, the District, in coordination with the Railroad Owner through the Relocation Committee, shall prepare an indicative plan and schedule for the preparation and submission of applications for all Railroad Approvals necessary for (i) the transfer of ownership of the Existing Railroad System and (ii) the Completion and transfer of ownership of the New Track System (unless the Existing Railroad System is Dead-End Track). Railroad Owner shall promptly provide any documents, data or information and access to personnel, contractors, vendors and consultants of Railroad Owner reasonably necessary or appropriate for the preparation of applications for Railroad Approvals relating to transfer of ownership of the Existing Railroad System and the design and construction of the New Track System, and all to the extent the foregoing are in Railroad Owner's possession or reasonable control. The District shall provide copies of proposed applications for such Railroad Approvals to be signed by Railroad Owner or submitted in its name to Railroad Owner for its prompt review and comment. The District, through the Relocation Committee, shall provide Railroad Owner access to any correspondence, communication, documents, information or data sent to or received from such Governmental Authority related to a Railroad Approval application. The Parties shall use reasonable good-faith efforts to cooperate in connection with such Railroad Approval application and procurement efforts, including reasonable consideration by the District of Railroad Owner's comments to proposed submissions subsequent to an application and execution by Railroad Owner of any applications, if applicable, as the intended owner and/or operator of the New Track System. Without affecting the allocation of responsibilities for Railroad Approvals contained herein, nothing in this Agreement should be construed as an expectation that the transfer or removal of any Existing Railroad System in accordance with this Agreement would constitute an "abandonment of service" that would require regulatory approval of the USSTB

(b) Railroad Approval Requirements. If the District determines that (i) the terms and conditions of any Railroad Approval would adversely impact the development, schedule, cost, criteria or standards related to development and construction of the applicable

Project, the removal of the Existing Railroad System or, if applicable, the construction of the New Track, or (ii) such Railroad Approval cannot be obtained within a time period to support the District's schedule for development and construction of the applicable Project, the Parties agree to work in good faith through the Relocation Committee to achieve a mutually agreeable resolution that will enable the District to develop and construct the Project without material adverse changes to the scope, cost, construction schedule, function, performance, operation, maintenance of such Project; provided, however, in no event shall the foregoing be deemed to interfere with the operations of the Railroad System or otherwise modify any other provisions of this Agreement.

(c) Status of Railroad Approvals. The Relocation Committee shall monitor the process and procedure for applying for and obtaining Railroad Approvals. The Parties through the Relocation Committee shall inform each other of developments relating to the processing, consideration, modifications or changes to, and approval of all Railroad Approvals. The District shall provide a copy of any Railroad Approval relating to the New Track System to Railroad Owner.

(d) Consultant. If Railroad Owner desires to engage a third party(ies) to provide services related to reviewing applications for Railroad Approvals whose fees would be Relocation Expenses hereunder, the parties, through the Relocation Committee, shall agree upon the scope of work to be performed by such consultant and a budget for the consultant's performance of the scope of work. The scope of work and budget shall detail anticipated activities and schedule and/or sequence for performance of services, the rates, fees, charges or reimbursable expenses related to such service and the maximum not to exceed price of such services based on the Relocation Budget. Such person(s), company(ies) or firm(s) shall be retained pursuant to written agreement acceptable to the Relocation Committee. The District shall be a third-party beneficiary of such agreements and each such agreement shall expressly set forth the obligation of such person, company or firm to prepare and maintain records and make them available for inspection, copying and audit by the District. Such person, company or firm shall possess and maintain insurance coverages meeting the District's requirements and possess all licenses, certifications, registrations or other authorizations required by applicable law. Railroad Owner shall be responsible for the supervision, management and coordination of such third party(ies) and actions and omissions of such consultant shall be for the account of Railroad Owner. Any report issued by such third party in connection with the performance of such services shall be certified to the District upon its written request therefor.

6. CONSTRUCTION OF NEW TRACK.

(a) Construction. The District shall cause the design and construction of the New Track to be performed at its cost and expense and in a good and workmanlike manner consistent with the Construction Standards. Railroad Owner shall be responsible for all Railroad Owner Expenses and all Overhead incurred or paid by Railroad Owner or an Affiliate in connection with the design and construction of the New Track or performance of this Agreement.

(b) Permit Issuance. Upon "final issuance" of the necessary Railroad Approvals, to the extent applicable (i) Railroad Owner shall cause the conveyance of fee title in

Dead-End Railroad System to the District pursuant to Section 8, and (ii) the District shall, subject to its rights to withdraw a Notice of Intent or the District Plan, cause the Completion of the New Track at the New Track Location. "Final issuance" of the Railroad Approvals shall be deemed to occur (x) with respect to Dead-End Railroad System only when all of the Railroad Approvals necessary for cessation of service on the Dead-End Railroad System, if any, have been issued or granted and (y) with respect to New Track, only when all of the Railroad Approvals necessary for commencement of construction of the New Track in accordance with the Construction Standards have been issued or granted, in each case by the applicable private parties and Governmental Authorities, all appeal periods have expired and any appeals filed have been finally and favorably determined. Notwithstanding the foregoing, the District reserves the right in its sole and absolute discretion to issue a full or limited notice to proceed to contractors at any time for commencement of all or any portion of work or services at a New Track Location not within the Relocation Corridor, including prior to "final issuance" of all Railroad Approvals necessary for Railroad Owner to remove and transfer ownership of the Existing Railroad System.

(c) Work. The District shall develop a plan, schedule and budget for construction of the New Track in accordance with its policies and procedures. If Railroad Owner desires to engage a third party(ies) to provide services related to monitoring the construction of the New Track whose fees would be Relocation Expenses hereunder, the parties, through the Relocation Committee, shall agree upon the scope of services to be performed by such consultant and a budget for the consultant's performance of the scope of services. The scope of such services and budget shall detail anticipated activities and the schedule and/or sequence for performance of services, the rates, fees, charges or reimbursable expenses related to such service and the maximum not to exceed price of such services based on the Relocation Budget. Railroad Owner shall deliver any proposed agreement(s) with a third party for such services to the District for its review and approval. All such agreements shall (i) require the third party to adhere to Prudent Industry Practice and applicable standards for engineering and construction practices, provide for control, budgeting, classification and auditing of costs; (ii) require that services be provided by licensed, certified or registered professionals in accordance with applicable laws; (iii) require the third party to obtain and maintain insurance policies which comply with the District's requirements; (iv) identify the District as a third-party beneficiary thereof; (v) contain an acknowledgement by the third party that it shall have no rights or recourse against the District; (vi) be immediately terminable without penalty, fee or other charge upon withdrawal of a Notice of Intent or the District Plan and upon Completion; (vii) require the third party to prepare and maintain records and make them available for inspection, copying and audit by the District; (viii) set forth other provisions reasonably required by the District; and (ix) contain an indemnification provision whereby the third party agrees to indemnify, defend and hold the District harmless from and against any personal injury, property damage, remediation, loss, liability, damage, fine, penalty, sanction, charge, cost or expense (including reasonable attorneys fees and costs) suffered by the District or District Indemnitees as a result of or arising out of the negligence, fault or willful misconduct of third party, its agents, employees and designees or their access to the New Track Location. Railroad Owner shall be responsible for the supervision, management and coordination of such third party(ies) and actions and omissions of such consultant shall be for the account of Railroad Owner. Any report issued by such third party in connection with the performance of such services shall be certified to the District upon its written request therefor.

(d) Approved Railroad Owner Agreements. An agreement between Railroad Owner and a third party shall be deemed approved by the District if the District Project Manager does not object by notice to Railroad Owner within ten (10) business days of the District Project Manager's receipt of the proposed agreement; it being understood that the District Project Manager's review of the terms of the proposed agreement shall be limited to verifying material compliance with subsection (c) above and that the District Project Manager's consent shall not be unreasonably withheld, delayed or conditioned. Any material amendment, modification or change of an approved Railroad Owner Agreement, including any change order or other modification of the price, rates, charges or fees thereunder, which relate to the provisions of subsection (c) above, shall be subject to prior review and approval by the District, which approval shall not be unreasonably withheld, delayed or conditioned. If the District and Railroad Owner cannot agree on an agreement or any subsequent amendment, modification or change thereof in accordance with the foregoing within fifteen (15) business days of the District's receipt thereof, the Parties shall in good faith seek to resolve the dispute pursuant to Section 20. The District shall have the right (i) to reject a contractor or consultant proposed by Railroad Owner and (ii) to require the replacement of any contractor or consultant of Railroad Owner that interferes with the performance of design and construction of New Track Systems or fails to observe work site rules and requirements.

(e) Specifications and Upgrades. The District and Railroad Owner agree that the Construction Standards represent the construction and operational requirements for the New Track as of Completion. Railroad Owner hereby agrees that any incremental additional costs of any upgrades that are requested by Railroad Owner in writing and (i) exceed the Construction Standards, or (ii) would increase the cost to procure, install or construct New Track ("Upgrades") shall be at the sole cost of Railroad Owner (unless Railroad Owner establishes to the District's satisfaction that the cost of such Upgrades will be less than the costs to construct the New Track in accordance with the Construction Standards); it being agreed that Railroad Owner shall not be responsible for any such costs of the Upgrades and the District shall not be responsible to cause the same to be procured, installed or constructed unless the Parties have agreed, in writing, to such costs. Railroad Owner shall have no right to propose and the District shall have no obligation to cause the procurement, installation or construction of any proposed upgrade which would cause the time for completion of the New Track System to be extended.

(f) Construction Services Agreement. Services, supplies, materials or equipment procured for construction of the New Track in accordance with the Construction Standards shall be procured in accordance with the District Plan and the District's procurement policies and procedures. The District shall deliver substantially completed proposed bid packages for such services, supplies, materials or equipment for New Track to the Railroad Owner for its review and concurrence no later than thirty (30) days prior to the scheduled date for execution and the District shall in good faith consider and address comments by Railroad Owner in writing relating to the consistency of such bid packages with the Construction Standards. Bid packages and related contracts, agreements, plans and specifications shall be deemed approved by the Railroad Owner if it does not object with detailed comments and proposed changes thereto in writing to the District within ten (10) business days of Railroad Owner's receipt thereof. In the event the District and Railroad Owner cannot agree on the bid packages within ten (10) days of the District's receipt of Railroad Owner's comments thereto,

the District and Railroad Owner shall in good faith seek to resolve the dispute pursuant to Section 20 hereof.

7. WORK/COST OF CONSTRUCTION.

(a) Construction of New Track. Agreements between the District and a third party for the design and construction of New Track (the “Relocation Contracts”) shall specify that work thereunder be performed in accordance with the applicable Construction Standards. Railroad Owner shall be identified as a third-party beneficiary of all such Relocation Contracts, including, without limitation, the beneficiary of any and all representations, warranties and indemnifications given thereunder. The District shall have sole control over (i) construction contractors engaged by the District, (ii) the New Track Location and (iii) any other adjacent land of Railroad Owner mutually agreed upon by District and Railroad Owner as reasonably necessary for District or its contractors to temporarily use for construction staging and related purposes and provided that District reimburses Railroad Owner for any damages to such adjacent land thereto in accordance with Section 8(c) hereof, provided that prompt notice to the District is provided not more than ten (10) business days after the occurrence of any such damage. It is intended that the means, methods, techniques, and sequence of performing all work and services incidental to the Completion of the New Track shall be determined in accordance with the Relocation Contracts. The District covenants and agrees to cause all construction materials, waste, debris, tools, consumables, temporary facilities and equipment to be removed in the course of performance of construction work and upon Completion of the New Track.

Commencing upon the commencement of construction activities by contractors retained by the District and continuing through Completion of the New Track, Railroad Owner shall (w) prior to Railroad Owner accessing the New Track Location, obtain and maintain worker's compensation, employers liability, automobile, professional responsibility, comprehensive general liability and other insurance policies that comply with the District's requirements, (x) maintain and provide access to the District of books and records of Relocation Expenses and related reports, logs, inspections, tests results and deliverables related thereto, (y) provide the District access to all design and construction plans, documents, drawings and specifications relating to the portion of the Railroad System which is connecting to the New Track System, to the extent in the possession or reasonable control of Railroad Owner and necessary or useful for the design of the New Track System, and (z) document all services for which Railroad Owner intends to seek reimbursement as Relocation Expenses in accordance with the District's requirements and this Agreement.

(b) Construction Requirements. The District shall exercise its rights under and enforce the terms and conditions of the Relocation Contracts in accordance with the District's applicable policies and procedures. The District shall not amend, modify, waive, or alter the terms and conditions of the Relocation Contracts without the prior written consent of the Railroad Owner if Railroad Owner would be materially adversely affected thereby, which consent by Railroad Owner shall not be unreasonably withheld, conditioned or delayed. Railroad Owner acknowledges and agrees that, from and after the conveyance of the New Track System by District to Railroad Owner in accordance with the terms of this Agreement, the District disclaims any and all duties, representations, warranties, guarantees and assurances of any kind, whether express or implied, with respect to the design, equipping, installation, testing,

commissioning, construction, completion, functionality, operation, maintenance or quality of New Track, and that the sole and exclusive recourse and remedy of Railroad Owner with respect to any defect or deficiency in or affecting New Track, non-compliance of New Track with the Construction Standards or the operation and maintenance thereof or delivery of transportation service on or over any New Track or New Track System shall be the rights, remedies, warranties and indemnification created, granted or conferred in favor of or for the benefit of the District and the Railroad Owner under the Relocation Contracts, all of which to the extent not granted or conferred upon Railroad Owner in the Relocation Contracts or enforceable by it as a third party beneficiary thereunder shall be assigned, transferred and conveyed to Railroad Owner to the fullest extent possible in connection with transfer of title to the New Track System. Upon conveyance of title in the New Track System to Railroad Owner, Railroad Owner covenants and agrees that it shall thereafter maintain the New Track System and conduct its operations thereon at its sole responsibility, risk, cost and expense.

(c) Railroad Owner Responsibilities. Railroad Owner shall be solely responsible for all aspects of its business, operations and services to third parties, which shall include, without limitation (i) Railroad Owner's operation and maintenance of the Existing Railroad System in accordance with all applicable Governmental Laws until conveyed to the District, (ii) coordination of operation of the Railroad System, including without limitation the scheduling of service stoppages and re-routing service, to reasonably support design, construction, interconnection, testing and Completion of the New Track System, and (iii) the certification, accuracy, and completeness of all Requisitions for reimbursement of Relocation Expenses and the proper application of all disbursements in respect thereof.

(d) Railroad System Operations. Railroad Owner shall allow personnel, representatives and actual and potential contractors or consultants of the District reasonable access to the Existing Railroad System at any time for purposes relating to assessment of the nature and scope of the work (i) to design and construct the Project thereon and (ii) to remove the Existing Railroad System, subject (to the extent not inconsistent with applicable Governmental Laws), to the Railroad Owner's commercially reasonable rules and policies regarding insurance (as to third parties and not as to the District), health, safety, security, indemnity (as to third parties and not as to the District) and confidentiality, but without limitation on or waiver of any immunity, exemption, limitation of liability or privilege of the District, provided that no invasive testing (e.g., water or soil sampling) may be performed on the site of the Existing Railroad System prior to issuance of the Notice of Intent related thereto. The District hereby covenants and agrees to cause design and construction of the New Track and removal and/or relocation of the Existing Railroad System to be performed and completed in a manner that does not unnecessarily encroach upon or adversely impact the operation of the Railroad System.

(e) Relocation Expenses. The District shall reimburse to Railroad Owner those reasonable, third-party, out-of-pocket costs and expenses generally described in the Relocation Budget (as the same may be amended by the Board in its sole and absolute discretion from time to time upon recommendation of the Relocation Committee) or otherwise approved in writing to be paid by District prior to being incurred by Railroad Owner, which out-of-pocket third party costs and expenses, to the extent incurred, paid and documented by Railroad Owner in accordance with the terms of this Agreement, shall include, but not be limited to, the following categories of costs: the costs of attorneys and consultants engaged by Railroad Owner

to (A) conduct Inspections (only if and to the extent provided in this Agreement), (B) review title and survey, (C) review applications and submissions related to Railroad Approval(s), and (D) review and monitor the activities of the District's contractors in performance of work for the design and construction of New Track and inspecting the same (collectively, the "Relocation Expenses"). The District shall have no obligation or responsibility to pay any costs or expenses of Railroad Owner which exceed the amount set forth in the Relocation Budget unless and only to the extent that such additional amounts have been approved in writing by the Board in its absolute and sole discretion and included in an amended Relocation Budget prior to being incurred by Railroad Owner. Upon the occurrence of an event, change or circumstance that will cause Railroad Owner to incur out of pocket costs in excess of the amount budgeted in the Relocation Budget, Railroad Owner shall provide prompt notice to the District detailing such changed circumstances and the basis for determining the amount by which such out of pocket costs will exceed the amount budgeted therefore in the Relocation Budget. Railroad Owner shall promptly notify the District when the sum of Relocation Expenses (x) paid by the District, (y) submitted in a Requisition and (c) incurred by the Railroad Owner but not requisitioned total seventy-five percent (75%) of the total amount budgeted for Relocation Expenses. The Parties shall cooperate and coordinate in order to optimize the tax treatment and characterization of expenses relating to the procurement of goods, services, supplies, materials, equipment and other items used in the performance of the design and construction of the New Track. Notwithstanding anything herein to the contrary, Railroad Owner shall upon ten (10) days notice to the District have the right to not commence or to otherwise suspend performance of its obligations hereunder, the cost and expense of which are Relocation Expenses, pending the allocation of funds therefor in a Relocation Budget.

(f) Relocation Expense Requisition. Railroad Owner shall submit a certified requisition to the District for Relocation Expenses no more frequently than monthly (each, a "Requisition"). Each Requisition shall describe the activity, service, cost or expense paid or incurred by Railroad Owner in the preceding month and shall be documented and submitted in accordance with the Invoice Requirements. The District shall not be required to make any reimbursement with respect to amounts for any service or activity not performed in accordance with the standards, criteria and requirements of this Agreement, including, without limitation, Section 19 hereof (to the extent applicable), or amounts withheld, retained or set-off or permitted to be withheld, retained or set-off by Railroad Owner from payments to a third party. Railroad Owner acknowledges that payment by the District in respect of requisitions submitted for reimbursement of Relocation Expenses shall not constitute or be deemed a waiver or release by the District of its rights or Railroad Owner's obligations in respect of the services for which such payment was made.

(g) Requisition Approval. A Requisition shall be deemed approved by the District if it does not object in writing to Railroad Owner within thirty (30) days of its receipt thereof. In the event the District and Railroad Owner cannot reach an agreement on a Requisition within thirty (30) days of the District's receipt thereof, they shall in good faith seek to resolve the dispute pursuant to **Section 20**. All reimbursable Relocation Expenses contained in a Requisition approved pursuant to this **Section 7** shall be deemed due and payable thirty (30) days from the date of such approval or resolution.

(h) Railroad Access; Construction Monitoring. Railroad Owner and its personnel and consultants, shall have the right to access the New Track Location to observe, monitor and review all New Track design and construction work in progress from time to time. The Parties acknowledge and agree that any such observation, monitoring or review of work by the Railroad Owner shall be performed in a diligent manner consistent with Prudent Industry Practice in accordance with schedule and policies developed by the Relocation Committee and procedures for the exchange of information relating to observation, monitoring and review findings. Railroad Owner shall have access to the New Track Location and other locations where work related to New Track System construction is being performed for the purpose of determining whether design engineers and construction contractors engaged by the District are performing work and discharging their obligations consistent with the Construction Standards in order to achieve Completion of the New Track in accordance with all Governmental Laws. Notwithstanding any procedures established by the Relocation Committee for the exchange of information, Railroad Owner shall promptly inform the District Project Manager of any negligent, faulty, inadequate, deficient or defective design, materials, equipment, workmanship or construction of New Track (collectively, a "Defect") as to which any officer, management level employee or consultant of Railroad Owner has actual knowledge. After the District Project Manager is informed of a Defect by Railroad Owner as provided above, Railroad Owner shall provide notice of such Defect to the District within (i) five (5) business days after the District Project Manager refuses to respond to or disputes the existence of a Defect or (ii) fifteen (15) business days after the District fails to commence to cure a Defect. As to Railroad Owner, New Track System work performed by the District's contractors shall be deemed performed consistent with the Construction Standards in order to achieve Completion of the New Track in accordance with all Governmental Laws if Railroad Owner or its contractors and consultants fail to: (x) exercise the right of Railroad Owner to monitor and observe the performance of work related to the design and construction of a New Track System in accordance with the schedule established by the Railroad Relocation Committee; or (y) cause such scheduled monitoring and observation to be performed in accordance with Prudent Industry Practice. Access of personnel and representatives of Railroad Owner to any location where work related to construction of the New Track is being performed shall be subject to the construction contractor's and the District's rules and policies regarding insurance, health, safety, security, indemnity and confidentiality. Railroad Owner and its personnel and representatives shall not interfere with, disrupt, hinder or delay performance of any work or activity related to the construction of the New Track. The District shall have no obligation to suspend, halt, postpone or re-sequence any work, the performance of any test or inspection or change the schedule or sequence of any work or activity due to personnel and representatives of Railroad Owner not being present or available. Notwithstanding any procedures established by the Relocation Committee for the exchange of information, District shall promptly inform the Railroad Project Manager of any Defect as to which any officer or management level employee or consultant of District, if any, has actual knowledge prior to Completion, and Railroad Owner shall not be deemed to have waived its right to object to any Defect actually known by an officer or management level employee of the District which is not communicated to Railroad Project Manager or Railroad Owner and not cured as to which any officer, management level employee or consultant of Railroad Owner does not have actual knowledge (assuming Railroad Owner's timely, diligent and proper exercise and performance of its rights and obligations in accordance with the standards, criteria and

requirements under this subsection (h)), assuming the existence thereof is not communicated to Railroad Project Manager or Railroad Owner and assuming any such defect is not cured.

(i) Completion of Relocation Work. The Final Inspection Period shall commence upon Railroad Owner's receipt of notice of completion from the District, which notice shall include (i) certifications from the District's principal design engineer and principal construction contractor stating that the New Track has been completed in accordance with the Construction Standards; (ii) District certification that there have been no improvements made upon the New Track, nor labor performed on the New Track, nor materials or supplies furnished or contracted for by SFWMD with respect to the New Track, for which full payment of such obligations has not been made with the exception of claims or disputes of contractors or vendors, which shall be resolved by the District in accordance with the applicable contracts relating thereto; (iii) copies of all Railroad Approvals pertaining to the construction of the New Track which have not previously been delivered to Railroad Owner and, to the extent required by applicable law, any evidence that the New Track is completed in accordance with the Construction Standards and is ready for operations by Railroad Owner in accordance with all Governmental Laws and requirements of all Governmental Authorities (the foregoing shall include, to the extent applicable, reasonable evidence that all appeal periods with respect to the Railroad Approvals have expired and any appeals filed have been finally and favorably determined); and (iv) certification from the District that it is prepared to transfer title to the New Track to Railroad Owner and receive fee title to the Existing Track Parcel to the extent not previously conveyed to the District (collectively, the "Completion Notice"). Upon receipt of the Completion Notice, Railroad Owner shall have forty-five (45) days to test and inspect the New Track in accordance with applicable law, Governmental Laws and requirements of Governmental Authorities and Prudent Industry Practice, which shall include, without limitation, the operation of trains over the New Track to ensure that the New Track has been completed in accordance with the Construction Standards and the Railroad Approvals (the "Final Inspection Period"). The Completion of the New Track shall be deemed approved by Railroad Owner if it does not object in writing to the District on or before the expiration of the Final Inspection Period setting forth in such notice the basis for its objection. The District shall have no obligation, duty or responsibility for any loss, damage, liability, costs or expenses incurred in connection with (x) the test and inspection of the New Railroad System during the Final Inspection Period arising out of or resulting from the negligence or failure of Railroad Owner to use the requisite level of care in the conduct of the test and inspection or (y) after conveyance of the title in the New Track System in accordance with this Agreement, the operation, maintenance or use of the New Track System. In the event the Parties cannot agree on Completion of the New Track in accordance with this Agreement within ninety (90) days of the Railroad Owner's receipt of the Completion Notice, the dispute shall be promptly resolved in accordance with Section 20 hereof. If the parties do not resolve the dispute within five (5) days after the conclusion of the non-binding arbitration, either Party may commence litigation. Determination of the completion of the New Track by the District and Railroad Owner pursuant to this Section 7(i) is herein called "Completion").

(j) Final Requisition. Within fifteen (15) days of the final determination of Completion of the New Track pursuant to Section 7(i), Railroad Owner shall submit its final Requisition to the District for reimbursement of the final Relocation Expenses. The District shall also provide the Railroad Owner with six (6) copies of the as-built drawings and copies of other

construction records and documents related to the New Track in the format and medium prepared in accordance with the Relocation Contracts.

(k) Termination by District. The Parties acknowledge and agree that the District may at any time prior to Completion of New Track elect to halt, suspend or terminate any or all work, services and activities related in any way to the development, permitting, design or construction of New Track. Upon such notice from the District, Railroad Owner shall promptly cease its activities and suspend or terminate the services of its consultants to the extent affected by any such election by the District. If the District elects to terminate Railroad Owner shall submit its final requisition in respect of Relocation Expenses incurred since the last Requisition within thirty (30) days of receipt of notice from the District of termination or New Track System work.

8. TRANSFER OR EXCHANGE OF PROPERTY.

(a) Dead-End System. Within fifteen (15) days after the later to occur of (i) the “final issuance” of the Railroad Approvals necessary for the removal of any Dead-End Railroad System; and (ii) the date that construction of the applicable Project is incompatible with the operation of the applicable Dead End Track, Railroad Owner shall convey fee simple title to the District in such Dead-End Railroad System parcel by special warranty deed and bill of sale, the form and substance of which is reasonably acceptable to the District and Railroad Owner, for no consideration.

(b) Existing Railroad System. Within fifteen (15) days after the later to occur of (i) final issuance of the Railroad Approvals necessary for the removal of the Existing Railroad System, and (ii) Completion of the New Track: (a) the District shall convey fee simple title to Railroad Owner in the New Track by bill of sale and in the New Track Parcel by fee simple deed in accordance with Section 373.099, Florida Statutes; and (b) Railroad Owner shall convey fee simple title to the District in the Existing Railroad System by bill of sale and the Existing Track Parcel by special warranty deed. At the time of such exchange: (x) Railroad Owner shall be deemed to have accepted the New Track System and title thereto, and the District shall be deemed to have accepted title to the Existing Railroad System and the Existing Track Parcel, in their then current “as-is, where-is” condition without requiring any action, expense or other thing or matter on the part of the conveying party to be paid or performed; and (y) Railroad Owner and District each hereby waives and releases the other and their Affiliates, representatives, agents, employees, successors and assigns from any present or future claims arising from or relating to the presence or alleged presence of Pollutants in, on, under or about the New Track System and the Existing Railroad System, as applicable, including, without limitation, any claims under or on account of Environmental Laws; it being agreed that, with respect to the New Track System the District shall nevertheless remain responsible for (A) the Remediation of the Pollutants Identified in BUYER’S Environmental Assessment pursuant to the ASP and (B) any events or activities pertaining to Remediation that can occur or be completed after operations have commenced on the New Track in accordance with Environmental Laws, and clauses (x) and (y) above shall not be deemed to alter or modify such obligations. The District shall pay all documentary stamp taxes, surtaxes (if any) and recording fees imposed in connection with (A) the conveyance of the Existing Railroad System and the Existing Track Parcel to the District and (B) the conveyance of the New Track System to Railroad Owner.

(c) Leased Property and Option Property. To the extent that any New Track Parcel designated by the District in its Notice of Intent constitutes any portion of District Property subject to the Lease or any portion of the Option Property in the Relocation Corridor subject to the ASP, except with respect to obligations and liabilities relating to environmental matters, Seller and the District shall be released from their respective obligations under the Lease in respect of such property subject thereto that constitutes all or a portion of the New Track Parcel, and any portion of the New Track Parcel within the Relocation Corridor will be excluded from the Option accordingly, as applicable (and the Lease shall be amended accordingly in accordance with its terms). The District shall be obligated to pay Seller for the portion of the New Track Parcel which is part of the Option Property being purchased by District, in accordance with Section 3(a). The District shall reimburse Seller for the loss of any crops or non-obsolete, useful improvements located outside the New Track Location that are owned by Seller and damaged in the course of construction of the New Track at the fair market value reasonably determined by the Parties. Reimbursement for the loss of or damage to any such crops or improvements shall be due within thirty (30) days after the District's receipt of the invoice in the amount of such determined value and substantiating detail and documentation, which shall be delivered after Completion of the New Track System. From and after the date that the Lease or Option is terminated as set forth in this paragraph as to portions of the New Track System, the annual rent in respect of property subject to the Lease shall be reduced by the applicable rent thereunder, multiplied by the acreage of the applicable portion of the New Track Parcel so terminated.

(d) Re-Transfer of New Track Parcel. With respect to the construction of New Track on a New Track Parcel that was part of the Relocation Corridor purchased from Seller pursuant to Section 3(a) hereof, if the District notifies the affected Seller that the District has abandoned its plan to use all or a portion of a New Track Parcel in connection with a New Track construction, the District shall sell the New Track Parcel to the Seller and the Seller shall purchase the New Track Parcel from the District on an as-is basis, subject to the other provisions of this subsection, and, to the extent paid by Seller, the District shall reimburse Seller for the amount paid under Section 3(i) or Section 4(h), as applicable. The purchase price to be paid by the Seller to the District shall be the price paid by the District to acquire the New Track Parcel abandoned by the District. Seller and the District shall promptly meet and confer with regard to such site and shall use commercially reasonable efforts to consummate such sale ninety (90) days after the later of the District's notice of abandonment or the District's removal at its cost and expense of the materials and equipment above grade installed thereon by the District. District agrees that: (i) from and after the acquisition of a New Track Parcel within the Relocation Corridor sold by Seller or an Affiliate hereunder, it will not grant any other party (other than Seller or its Affiliates) any rights to use or occupy such New Track Parcel for purposes other than construction of the New Track; and (ii) at the closing of such acquisition of the New Track Parcel by the District, it shall record a memorandum of this Agreement, in form and substance reasonably acceptable to the affected Seller and the District, specifically setting forth the provisions of this Section 8(d).

9. INTENTIONALLY DELETED.

10. CLEARANCES. The District agrees that any above-ground or underground utility or other facilities (e.g., electric lines, utility poles, underground fiber optic crossings or

phone lines) (collectively, the “Facilities”) that need to be relocated from an Existing Track System into a New Track System shall be in a location that: (a) is determined by the Railroad Relocation Committee; and (b) does not unreasonably interfere with railroad operations. In connection with the foregoing, any existing or relocated overhead electric or other overhead wires or cables may cross over the New Track Location so long as such wires or cables: (x) are no less than twenty-seven feet (27’) above the top of rail of any New Track for the full width of said horizontal clearance, or at a greater height if required by applicable Governmental Laws; and (y) otherwise comply with the standards prescribed by applicable Governmental Laws, including, without limitation, the National Electric Safety Code.

The purpose of this **Section 10** is to address the location of Facilities that may be relocated by the District in connection with the construction of a New Track System. In no event shall this section be deemed to grant to the District the right to install any Facilities in a New Track System that are not being relocated from an Existing Track System; provided, however, that the District may locate electrical or communications Facilities whose sole purpose is to serve the applicable Project that relates to the New Track System, so long as such Facilities are identified in the initial Notice of Intent for the applicable New Track System and the District enters into agreements with Railroad Owner on similar terms and conditions (including monetary terms) that are entered into with other parties using Railroad Owner’s right of way (provided, the District shall not have the right to assign its rights in, or otherwise allow other parties to use, such Facilities). Notwithstanding the foregoing, Railroad Owner agrees that the District shall have the right to install: (a) underground Facilities that cross perpendicularly under the New Track System for electrical lines, pipelines, culverts and communication lines that solely serve the applicable Project on similar terms and conditions (except that Railroad Owner agrees not to charge District for utilizing such underground crossing) that are entered into with other parties using Railroad Owner’s right of way (provided, the District shall not have the right to assign its rights in, or otherwise allow other parties to use, such Facilities); and (b) above-ground or underground Facilities for the purpose of complying with the terms of then existing easements, if any, shown in the New Track Parcels Commitment and not objected to by Railroad Owner under **Section 3(c)(iii)** above, but subject to the applicable requirements set forth in the first grammatical paragraph of this section.

11. **INTENTIONALLY DELETED.**

12. **PRESERVATION OF TITLE.**

(a) **Covenant Against Further Grants.** After initial issuance of each Notice of Intent: (i) Railroad Owner will not grant or authorize any road crossing, license, easement, crossing easement, lease or other interest to third parties pertaining to the applicable Existing Railroad System without the express written consent of the District, which consent may be withheld in its sole and absolute discretion, provided, however, that Railroad Owner shall have the right to grant or authorize any of the aforesaid matters with notice to the District if Railroad Owner is required to do so by Governmental Law or pursuant to an agreement that exists prior to the issuance of the District’s Notice of Intent that is provided to the District within thirty (30) days after initial issuance of the District’s Notice of Intent and request therefor by the District (which request may be set forth in the Notice of Intent), and subject to the rights of the District during the Exclusive Option Period; and (ii) District will not grant or authorize any road

crossing, license, easement, crossing easement, lease or other interest to District or third parties pertaining to the New Track Location without the express written consent of the Railroad Owner, which consent may be withheld in its sole and absolute discretion, except if the District is required to do so by Governmental Law.

(b) Lien Filing. Upon the issuance of a Notice of Intent identifying an Existing Railroad System, the District shall have the right to record in the county or counties in which such Existing Railroad System is located a notice of the pending removal and transfer of such Existing Railroad System pursuant to this Agreement (the "Recorded Notice of Removal"). Information set forth in the Recorded Notice of Removal shall include a description of the Existing Railroad System, reference to this Agreement, and notice that such recorded Notice of Removal shall establish a lien priority with respect to the Existing Railroad System in favor of the District in accordance with this Agreement. Railroad Owner agrees, grants and declares that the Existing Railroad System described in a Recorded Notice of Removal shall be imposed with a lien in favor of the District effective against all rights, claims, judgments and encumbrances, whether voluntary or involuntary, arising after the recording of the Recorded Notice of Removal. Such lien shall secure the District's right to acquire the Existing Railroad System free from further encumbrance by rights, claims, judgments or interests arising after the Recorded Notice of Removal. Railroad Owner agrees, upon the District's request, to promptly execute such instruments, in recordable form, as the District may reasonably request to be recorded in order to perfect such lien right. Railroad Owner has no obligation to enforce the District's lien against third parties, but Railroad Owner agrees to cooperate reasonably with the District's enforcement of the District's lien rights, provided that the out-of-pocket cost or expense to Railroad Owner of providing such cooperation shall be Relocation Expenses approved by the District, subject to Railroad Owner's absolute obligation to eliminate Curable Title Defects. Without limiting Railroad Owner's obligation to eliminate all Curable Title Defects, the District's lien shall be subordinate to any and all (i) mortgages, deeds of trust, trust indentures or other interests evidencing a security interest in the Existing Railroad System in favor of Railroad Owner's unaffiliated lenders as the same exist at the time of the recording of the Recorded Notice of Removal, and (ii) amendments, modifications, replacements or extensions thereof which may be entered into after the time of the recording of such Recorded Notice of Removal so long as the same does not increase the indebtedness secured thereby encumbering such Existing Railroad System. Without limiting the automatic effectiveness of the foregoing subordination, within forty-five (45) days after written request by Railroad Owner, the District hereby agrees to execute and deliver a subordination agreement, in form and substance reasonably acceptable to Railroad Owner and the District, evidencing such subordination. If at any time following the recording of a Recorded Notice of Removal the District's Notice of Intent for the applicable Existing Railroad System is rescinded, the District shall promptly release its lien by recording notice of such rescission of the Notice of Intent in the applicable public records.

13. TERM; TERMINATION.

(a) Original Term. This Agreement shall take effect as of the Effective Date and shall remain in effect for a period of thirty-five (35) years thereafter; provided, however, this Agreement shall remain in full force and effect until the completion of any Remediation pursuant to Section 3 and the Completion of New Track and transfer of Existing Railroad Systems to the extent of a Notice of Intent delivered by the District to Railroad Owner prior thereto and

construction of such New Track and/or transfer of Existing Railroad Systems has not yet been completed pursuant to the terms of this Agreement on the date that is thirty-five (35) years from the Effective Date.

(b) Termination. Except as otherwise expressly provided herein, this Agreement may not be terminated prior to expiration hereof except by a writing signed by authorized representatives of each Party expressly setting forth the effective date of such termination. Notwithstanding the immediately preceding sentence, the District reserves the right to terminate, interrupt, delay or suspend for convenience in its absolute and sole discretion the performance of all or any work, services or activities related to the design, permitting or construction of a New Track System or the transfer of Existing Railroad Systems. The District shall exercise such right with respect to the design, permitting and construction of New Track Systems by providing notice to Railroad Owner specifying the portion of the work to be terminated or suspended. Railroad Owner and its contractors and consultants shall promptly cease performance of services and activities for which it would otherwise be entitled to receive reimbursement as Relocation Expenses and Railroad Owner shall use all reasonable efforts to minimize cancellation charges and other costs and expenses associated with any such suspension or termination. In the event of the District's exercise of its right to terminate for convenience all work and services related to the design, permitting and construction of a New Track System, the District's sole obligation and Railroad Owner's sole compensation therefor shall be reimbursement by the District of all Relocation Expenses incurred by Railroad Owner through the date of termination, and the District shall be relieved of any and all future obligations hereunder in respect of the work terminated, including, but not limited to, lost profits and consequential, incidental, indirect, special or similar damages.

14. SEVERABILITY. This Agreement is executed by all Parties under current interpretation of any and all applicable federal, state, county, municipal or other local statute, ordinance or law. Further, each and every separate provision herein contained shall have independent and severable status from each other separate provision for the determination of legality, so that if any separate provision herein is determined to be unconstitutional, illegal, violative of trade or commerce, in contravention of public policy, void, invalid or unenforceable for any reason, that separate provision shall be treated as a nullity, but such holding or determination shall have no effect upon the validity or enforceability of each and every other separate provision; so long as such stricken provision is not a material provision of this Agreement. If the stricken provision is a material provision of this Agreement and the absence of the provision would materially alter the Parties obligations hereunder, the Parties shall amend, modify and otherwise reform this Agreement to replace such stricken provision so as to enable the Parties to maintain this Agreement in full force and effect and to give full force and effect to and accomplish the terms and intent of this Agreement.

15. SUCCESSORS AND ASSIGNS. The terms, covenants, and provisions of this Agreement shall inure to the benefit of and be binding upon the successors and assigns of the Parties only to the extent expressly set forth in this Section 15 as follows:

(a) Successors and Assigns of the District. This Agreement may not be assigned by the District, without the Seller's and SCFE's prior written consent, which may be withheld in their sole and absolute discretion; provided, however, that no such consent shall be

required (i) for the District to collaterally assign all or a part of its interest in this Agreement and its rights and interests hereunder to the lenders and/or financing trustees or administrators of any third party financing or re-financing in any way relating to the transactions contemplated by the ASP to the extent required by such sources of such financing or re-financing or trustees or administrators, and (ii) the assignment by the District of all or a part of its interest in this Agreement and its rights and obligations hereunder to any governmental entity organized under the laws of the State of Florida. This Agreement shall be binding upon the successors and permitted assigns of the District.

(b) Successors and Assigns of SCFE and USSC, as Railroad Owner. SCFE or USSC, in their capacity as Railroad Owner, may assign, transfer or convey all or any of their respective interests, rights or obligations under this Agreement (herein called an "Assignment") without the consent of the District. In the event of: (i) the sale of all or substantially all of the assets, properties, rights and interests of Railroad Owner; or (ii) the sale of portions of the Railroad System and all related assets, properties, interests, contracts, permits and rights with respect to such portion, which includes an Assignment to an assignee that is not an Affiliate of SCFE or USSC ("Assignee") then, upon the delivery to the District of an executed assignment and assumption agreement between the applicable Railroad Owner and the Assignee, wherein the Assignee agrees to assume, perform and be bound by the obligations and covenants of Railroad Owner hereunder for all obligations and liabilities with respect to the portion of the Railroad System to which such Assignee succeeds and which arise or accrue from and after the effective date of such Assignment, regardless of whether (x) such obligations and liabilities are certain or contingent or (y) any claim that arises (i.e., is made) after the effective date of such Assignment relates to matters occurring prior to the effective date of such Assignment (herein collectively called the "Post-Assignment Liabilities"), then Seller and SCFE shall be released and acquitted from all Post-Assignment Liabilities; provided, however, that it is the intent of the Parties that such release shall not affect the rights of the District, if any, in respect of or the obligation of any third party insurer under any policies of insurance in force or effect prior to the Assignment under which Seller and/or SCFE are a named insured or additional insured, it being agreed that in no event shall this expression of the intent of the Parties be deemed to require Seller or SCFE to maintain or obtain any insurance after the effective date of such Assignment. This Agreement shall be binding upon the successors by merger, consolidation, reorganization or recapitalization to USSC and SCFE. In the event of an Assignment, the Parties agree, upon request by a Party or the Assignee, to amend this Agreement and/or enter into a separate and similar agreement with the Assignee, whereupon the Assignee's rights and obligations will be set forth in such separate agreement.

(c) Binding Effect of this Agreement on the Railroad System. The obligations, covenants, agreements, duties and promises of the Parties hereunder shall benefit, be binding upon and run with the real property located within the Railroad System.

(d) Binding Effect of this Agreement on the Option Property Railroad System. This Agreement shall only become binding upon all or a portion of the Option Property Railroad System to the extent that the District acquires any portion of the Option Property pursuant to the exercise of its rights under the ASP that is immediately adjacent to all or a portion of the Option Property Railroad System, in which event this Agreement shall only become binding upon the portion of the Option Property Railroad System that is immediately adjacent to the portion of the

Option Property that has been acquired by the District pursuant to the exercise of its rights under the ASP. In such event, the foregoing shall be evidenced by an amendment to this Agreement and the Memorandum as described in Section 23 hereof.

(e) Binding Effect of this Agreement on the Option Property.

(i) District hereby acknowledges and agrees that, with respect to all or any portions of the Option Property that has/have not been acquired by the District pursuant to the exercise of its rights under the ASP, this Agreement: (x) shall not confer any right, title or interest in all or such portions of the Option Property; and (y) shall not be deemed to encumber, run with or be binding all or such portions of the Option Property, except with respect to the Relocation Corridor as and to the extent set forth in clause (ii) below.

(ii) To the extent that the District acquires the North/Central Property pursuant to the ASP, then this Agreement shall run with and be binding upon the Relocation Corridor and shall run with and benefit the Relocation Area, but only as and to the extent that: (x) District and its permitted successors and assigns (as described in subsection (a) above) is the owner of the applicable portion of the Relocation Area upon which a Project is to be constructed; and (y) Seller, an Affiliate of Seller or any other owner of the Relocation Corridor that is bound by the Option during the Exclusive Option Period, owns the portion of the Relocation Corridor at the time that the District attempts to acquire the same under Section 3(a) hereof.

(f) Subordination of this Agreement. Without limiting the effectiveness of the other provisions of this Section 15, including, without limitation, subsections (d) and (e) above, this Agreement, as it relates to the Option Property Railroad System and the Option Property, including the Relocation Corridor, shall at all times be subject and subordinate to: (x) any and all mortgages, deeds of trust, trust indentures, or other instruments evidencing a security interest upon the Option Property Railroad System and the Option Property, which may now or hereafter affect any portion of the Option Property Railroad System and the Option Property, including the Relocation Corridor; (y) any other encumbrances or other matters that may be recorded against the Option Property Railroad System and the Option Property from and after the date hereof, subject to the applicable limitations and restrictions contained in the ASP and/or, with respect to the Relocation Corridor only, this Agreement; and (z) all leases concerning the Option Property Railroad System and the Option Property, which may now or hereafter affect any portion of the Option Property Railroad System and the Option Property (whether of record or not), subject to the applicable limitations and restrictions contained in the ASP and/or, with respect to the Relocation Corridor only, this Agreement. Without limiting the automatic effectiveness of the foregoing subordination, within forty-five (45) days after written request by USSC, the District hereby agrees to execute and deliver a subordination agreement, in form and substance reasonably acceptable to USSC, Seller's lender (if applicable) and the District, evidencing such subordination. The foregoing subordination shall not limit Seller's or Railroad Owner's obligations to eliminate Curable Title Defects in connection with the acquisition by the District of a portion of the Railroad System or Relocation Corridor.

(g) Execution of Releases and Confirmations. The Parties agree to promptly execute, after written request, any confirmation of the effectiveness and status and/or release of this Agreement as to all or any portions of the real property described above, as applicable at the time of such request.

16. MISCELLANEOUS.

(a) Notice. Any notice, request, demand, instruction, or other communications to be given, provided or delivered to any Party hereunder other than routine communication among the District Project Manager and the Railroad Project Manager in connection with Relocation Committee matters, shall be in writing and shall be deemed to be delivered upon the earlier to occur of the following during regular business hours on a business day: (i) actual receipt if delivered by hand, commercial courier or reputable overnight delivery service to the address indicated, (ii)(x) facsimile transmission, with confirmation of receipt or (y) electronic transmission (if a Party designates by notice an email address for such purposes), if also sent by another alternative means of delivery described herein; or (iii) the delivery by registered or certified United States Postal Service mail, return receipt requested, postage prepaid, addressed as follows:

If to District: South Florida Water Management District
3301 Gun Club Road
West Palm Beach, Florida 33406
Attention: Executive Director and Chairman
Fax: (561) 681-6233

With a copy to: South Florida Water Management District
3301 Gun Club Road
West Palm Beach, Florida 33406
Attention: General Counsel
Fax: (561) 682-6447

If to Seller: United States Sugar Corporation
111 Ponce de Leon Avenue
Clewiston, Florida 33440
Attention: Malcolm S. (Bubba) Wade, Jr. and
Edward Almeida, Esq.
Fax: (863) 902-2120

If to SCFE: South Central Florida Express, Inc.
900 South W.C. Owen Avenue
Clewiston, FL 33440
Attention: Malcolm S. (Bubba) Wade, Jr. and
Edward Almeida, Esq.
Fax: (863) 902-2120

With a copy to (for

both Seller and SCFE): Gunster, Yoakley & Stewart, P.A.
Las Olas Centre
450 East Las Olas Boulevard, Suite 1400
Fort Lauderdale, Florida 33301-4206
Attention: Daniel M. Mackler, Esq. and
Danielle DeVito-Hurley, Esq.
Fax: (954) 523-1722

The Parties agree that in connection with a particular Project for which USSC and SCFE are Railroad Owner, until USSC and SCFE cease to be Affiliates and such fact is communicated by notice to the District, the District shall comply with the requirement of this section by providing notice to the entity designated by USSC and SCFE as the Railroad Owner to manage and administer this Agreement. Notices delivered after normal business hours or on a non-business day shall be deemed delivered on the next business day. The addresses for the purpose of this section may be changed and email addresses may be designated by any Party by giving written notice of such change or designation to the other Party in the manner provided herein. Attorneys for the respective Parties to this Agreement may send and receive notices on their client's behalf.

(b) No oral promises, oral agreements, oral representations, or oral warranties shall be deemed a part of this Agreement, nor shall any alteration, amendment, supplement or waiver of any of the provisions of this Agreement be binding upon the Parties unless same be supplemented, altered, changed or amended by an instrument in writing, signed by the Parties.

(c) Exhibits. All exhibits attached hereto are incorporated by reference as if fully set forth herein. Exhibits A, B, C, D, E, F, G, H, I, J, K and L shall be modified, if applicable, as (i) the District exercises rights under the ASP and this Agreement to acquire Option Property and (ii) a Railroad Owner relocates or ceases to use any portion of or expands the Option Property Railroad System.

(d) Jurisdiction and Venue. The Parties acknowledge that a substantial portion of negotiations and anticipated performance and execution of this Agreement occurred or shall occur in Palm Beach County, Florida, and that, therefore, each of the Parties irrevocably and unconditionally (i) agrees that any suit, action or legal proceeding arising out of or relating to this Agreement may be brought in the courts of record of the State of Florida in Palm Beach County or the court of the United States, Southern District of Florida; (ii) consents to the jurisdiction of each such court in any suit, action or proceeding; (iii) waives any objection which it may have to the laying of venue of any such suit, action or proceeding in any of such courts; and (iv) agrees that service of any court paper may be effected on such Party by mail, as provided in this Agreement, or in such other manner as may be provided under applicable laws or court rules in said state.

(e) Survival. The provisions of this Agreement relating to payment, indemnity, remedies, limitation of liability, notice, governing law, further assurances and dispute resolution shall survive termination or expiration of this Agreement.

(f) Authority. Each Party represents and warrants that it knows of no misstatement by it of any fact or belief in this Agreement, that it has the legal power and authority to enter into and perform fully under this Agreement, that there is no pending or known eminent domain or other litigation involving it that may materially adversely affect such Party's compliance with or performance under this Agreement, and that the person executing this Agreement on the Party's behalf is duly authorized to do so.

(g) Waiver of Claims. In consideration for the District's covenants and agreements under this Agreement and solely to the extent applicable, Seller and/or SCFE, as applicable, each hereby waives any rights or claims it may have under the Uniform Relocation Assistance and Real Property Acquisition Policy Act of 1970, as amended (42 U.S.C. § 4601 et seq.).

(h) Entire Agreement. This Agreement contains the entire agreement between the Parties pertaining to the rights, benefits, privileges, interests, obligations, covenants and duties in respect of relocation of Railroad Systems, construction and transfer of New Railroad Systems and transfer of Existing Railroad Systems, and supersedes all prior and contemporaneous agreements, representations and understandings of the parties, preliminary or prior to the execution and delivery of this Agreement, including without limitation the ASP and the Lease. In the event of any conflict between the terms and provisions of this Agreement and the terms and provisions of the ASP and/or the Lease, then the terms and provisions of this Agreement shall control. The Parties collectively have prepared this Agreement, and none of the provisions hereof shall be construed against one Party on the ground that such Party is the author of this Agreement or any part hereof. Each Party shall pay its own costs and expenses in relation to the negotiation, preparation, execution and carrying into effect of this Agreement, except as otherwise expressly provided herein. No agreements or representations, unless incorporated in this Agreement shall be binding upon any of the Parties. No amendment, modification or change in this Agreement shall be valid or binding upon the parties unless in writing and executed by the Parties. For all purposes of this Agreement, unless otherwise expressly stated to the contrary, the terms "hereby," "hereto," "hereof," "hereunder" and "herein" shall refer to this entire Agreement.

(i) Further Assurances. The Parties hereto agree to take actions and execute and deliver promptly any and all other and further instruments, documents and information which a Party may request, at such Party's cost, and which are reasonably necessary or appropriate to give full force and effect to and accomplish the terms and intent of this Agreement.

(j) Relationship of the Parties. This Agreement shall not be interpreted to create an association, joint venture, or partnership between Seller and SCFE on the one hand, and the District on the other hand, nor to impose any partnership obligation or liability upon any Party. Neither Party shall have any right, power, or authority to enter into any agreement or undertaking for, or act on behalf of, or to act as an agent or representative of, the other Party.

(k) No Third-Party Beneficiaries. Except with respect to the rights of the Indemnified Party, nothing in this Agreement nor any action taken hereunder shall be construed to create any duty, liability or standard of care to any third party, no third party shall have any rights or interest, direct or indirect, in this Agreement, and this Agreement is intended solely for

the benefit of the Parties, and the Parties expressly disclaim any intent to create any rights in any third party as a third-party beneficiary to this Agreement or the services to be provided hereunder.

(l) Time is of the Essence. Subject to the provisions of **Section 22** hereof, time is of the essence with respect to performance by each Party of their respective covenants, obligations and conditions hereof; provided, however the Parties acknowledge and agree that the District shall have no obligation hereunder to cause commencement of work or achievement of Completion of the construction of any proposed New Track System and may at any time withdraw a Notice of Intent, terminate a District Plan, suspend, abandon or terminate any work associated with design and construction of any New Track System and removal of any Existing Track System at its sole and absolute discretion.

(m) Headings. The headings in this Agreement are for purposes of reference only, and shall not affect the meaning hereof.

17. LIABILITY.

(a) Indemnitees. For purposes of this Agreement: (i) “District Indemnitees” means the District, and their partners, successors, assigns, legal representatives, officers, directors, members, managers, shareholders, employees, agents and contractors; and (ii) “Liabilities” means all claims, liabilities, fines, penalties, costs, sanctions, assessments, damages, losses, liens, causes of action, suits, proceedings, demands, judgments, and expenses (including, without limitation, court costs, attorneys’ fees and costs of investigation, audit, removal and remediation, and governmental oversight costs), environmental or otherwise.

(b) Indemnification. After conveyance of a New Track System pursuant to this Agreement, Railroad Owner shall release, indemnify, defend, and hold the District Indemnitees harmless from and against any Liabilities arising out of or related to (in whole or in part) any claim against any District Indemnitee arising out of or related to the design and construction of the applicable New Track System conveyed to such Railroad Owner.

(c) Defense. Upon written notice, the indemnifying party agrees to assume the defense of any lawsuit or other proceeding brought against a District Indemnitee by any person or entity, relating to any matter covered by this Agreement for which it has an obligation to assume liability for and/or save and hold harmless the other party. Such indemnifying party shall pay all reasonable, out-of-pocket costs incident to such defense, including, but not limited to, reasonable attorneys’ fees, reasonable investigators’ fees, reasonable litigation and appeal expenses, settlement payments, and amounts paid in satisfaction of judgments. The indemnifying party shall have the right, to the fullest extent permitted by law, to assert any defenses that are available to the District Indemnitees in any such matter.

(d) Notice. As a precondition to all indemnification obligations under this **Section 17**, the District Indemnitees will (i) fully cooperate with Seller and/or SCFE, as applicable, in any investigation and provide Seller and/or SCFE with access to all information in its possession or control relating to any matter for which indemnification is sought which it is permitted to disclose, and (ii) provide Seller and/or SCFE with timely written notice of any

matter or incident for which the District Indemnatee may make a claim for indemnification; provided, however, the failure of a District Indemnatee to provide timely notice shall not constitute a waiver, release or diminution of the Seller and/or SCFE's indemnity obligation under this **Section 17** except to the extent that the indemnifying party is materially prejudiced thereby.

(e) **Joint and Several Liability.** The entities constituting Seller and SCFE shall be jointly and severally liable for all obligations of Seller and/or SCFE under this Agreement so long as the same are Affiliates; otherwise their respective liability shall be several. A failure or default by any of the entities constituting Seller or SCFE shall be deemed a failure or default by all of such Seller entities and SCFE. Without limiting the foregoing, Seller and SCFE each agrees that USSC may act as the representative of each Seller and SCFE and that the District may deliver any notice to Seller and/or SCFE to USSC on behalf of each Seller and SCFE and rely on any notice given or other action or taken by USSC on behalf of Seller and/or SCFE.

18. **PARTIES' DESIGNEES.** The District, Seller and SCFE shall each have the right to contract, hire or appoint architects, engineers, contractors, vendors, consultants, advisors and other designees to assist with (a) the exercise of their respective rights and (b) performance of and compliance with the respective obligations under this Agreement, subject to and in accordance with the terms of this Agreement. The District shall only be required to reimburse costs, expenses, fees and other amounts paid by Railroad Owner to the extent incurred, documented and invoiced in accordance with the requirements hereof relating to Relocation Expenses.

19. **EVENT OF DEFAULT.**

(a) **Default.** If Seller and/or SCFE, on the one hand, or the District, on the other hand, shall breach, default in or fail to perform any of its/their obligations under this Agreement, the other Party shall provide notice of default to the defaulting Party and afford the defaulting Party a grace period to cure said defaults, as follows:

(i) **Grace Period Specified.** Where a grace period is specifically provided for in any provision of this Agreement, that specific grace period shall apply.

(ii) **Default Grace Period.** Where a grace period is not specifically provided for in any provision of this Agreement, the non-defaulting Party shall provide notice of such default to the defaulting Party and afford the defaulting Party a grace period of thirty (30) days to cure said default; provided, however, that if the default in question is a non-monetary default that cannot be cured within such thirty (30) day period, the defaulting Party shall be afforded such additional time as shall be reasonably required to cure such default if the defaulting Party has commenced the appropriate cure within said initial thirty (30) day period, and thereafter proceeds with reasonable diligence to cure such default.

In addition to any other events of default and any other remedies available under this Agreement, or as provided by law, the non-defaulting Party may immediately terminate this Agreement with respect to the defaulting Party without prior written notice to the defaulting Party if such Party files a petition in bankruptcy or commences a case for relief from creditors

under state or federal bankruptcy law, or orders for relief under federal or state bankruptcy law are entered against the defaulting party, or makes a general assignment for the benefit of creditors, or a receiver is appointed of substantially all of the property of such party including in any event, this Agreement, in proceedings based upon the insolvency of the defaulting Party.

(b) Remedies. If the defaulting Party remains in default hereunder beyond the expiration of any applicable grace period stated above, the non-defaulting Party shall have the right (but not the obligation):

(i) Cure. To cure default on behalf of the defaulting Party, in which event the defaulting Party shall immediately reimburse the non-defaulting Party upon receipt of an invoice, bill or statement therefor all reasonable costs, fees, expenses and other amounts paid by it to effect such cure, together with interest at the Interest Rate; and

(ii) Collection. To collect from the defaulting Party all reasonable costs, fees, expenses and other amounts paid by it to effect such cure, together with interest thereon at the Interest Rate.

(c) Cumulative Rights. The remedies heretofore described in this Section shall be in addition to any other remedy the non-defaulting Party may have at law and in equity in the event of a default by the defaulting Party, including without limitation:

(i) Specific Performance. An action for specific performance of non-monetary covenants and agreements on the part of the defaulting Party; and

(ii) Actual Damages. An action for recovery of all actual damages, losses, costs, expenses and fees, including reasonable attorneys' fees incurred by the non-defaulting Party in connection with the default; provided, however, that in no event shall a Party be liable for loss of profits or other consequential damages or punitive damages, except for such damages resulting from gross negligence or willful misconduct or consequential damages subject to any indemnity or reimbursement obligation hereunder related to claims of third parties.

20. DISPUTE RESOLUTION PROCEDURES.

(a) Negotiation by the Parties. If a dispute arises between District on one hand and either or both of Seller and/or SCFE on the other hand, executives of both Parties shall meet at a mutually acceptable time and place within ten (10) days after delivery of notice of such dispute and thereafter as often as they reasonably deem necessary, to exchange relevant information and to attempt to negotiate resolutions of the dispute. If the matter has not been resolved within ten (10) days from the referral of the dispute to the executives, either Party may initiate mediation as provided hereinafter.

(b) Mediation.

(i) Proceeding. If the dispute has not been resolved by the negotiation as provided above, the Parties shall endeavor to settle the dispute by mediation. Either

Party may initiate a non-binding mediation proceeding by a request in writing to the other Party; thereupon, both Parties will be obligated to engage in mediation before a mutually agreeable expert in the (“Expert”) subject matter of the dispute. The proceeding will be conducted at a mutually agreeable location in West Palm Beach, Florida in accordance with Section 44.1011 et seq., Florida Statutes.

(ii) Mediator. If the Parties have not agreed within ten (10) days of the request for mediation on the selection of an Expert willing to serve, the dispute will be referred to a court with jurisdiction over the Parties in accordance with **Section 16(c)** for selection of a mediator.

(iii) Mediation Conclusion. Efforts to reach a settlement will continue until the conclusion of the mediation proceeding, which is deemed to occur when: a written settlement is reached, the mediator concludes and informs the Parties in writing that further efforts would not be useful, the Parties agree in writing that an impasse has been reached, or a Party commences litigation in accordance with **Section 20(c)**.

(c) Litigation. If the dispute has not been resolved by mediation as provided in **Section 20(b)** within forty-five (45) days of the initiation of such mediation procedure, either Party may initiate litigation upon five (5) days written notice to the other Party; provided, however, that if one Party has requested the other to participate in a nonbinding procedure, as provided for under this **Section 20**, and the other Party has failed to participate, the requesting Party may initiate litigation before expiration of the above period. The Parties agree that all actions or proceedings arising in connection with this Agreement shall be tried and litigated exclusively in the courts specified in **Section 16(c)**.

(d) Confidentiality. To the extent allowed by Law, all negotiations, settlement agreements and/or other written documentation pursuant to this **Section 20** shall be confidential and shall be treated as compromise and settlement negotiations for purposes of the Federal Rules of Evidence and Florida Rules of Evidence. Notwithstanding the foregoing, to the extent not inconsistent with Section 44.1011 et. seq., Florida Statutes, Seller and SCFE shall allow public access to all documents and materials relating to the performance of obligations hereunder in accordance with the provisions of Chapter 119, Florida Statutes only and solely to the extent such documents are in their respective care, custody and control and the provisions of Chapter 119, Florida Statutes are applicable to Seller and SCFE. If Seller and/or SCFE assert any exemptions to the requirements of Chapter 119 and related statutes, the burden of establishing such exemption, by way of injunction or other relief as provided by law, shall be upon Seller and/or SCFE, at its cost and expense.

(e) Costs of Dispute Resolution. Each Party shall bear its own fees and expenses with respect to the dispute resolution procedures and the District, on the one hand, and SCFE and Seller, as applicable, on the other hand, shall each pay fifty percent (50%) of the fees and expenses of any mediator used under **Section 20(b)** above.

(f) Continued Performance. The existence of a dispute, claim or controversy relating to this Agreement shall not itself relieve the Parties from the performance of their obligations hereunder.

21. ACCESS AGREEMENTS. The Parties, engineers and construction contractors will require access over and to various portions of the District Property, the property of Seller and/or SCFE, as applicable, the Proposed New Track Location and the New Track Location during (a) due diligence of the proposed locations for the Existing Railroad System and the New Track and (b) the design and construction of the New Track, which access shall be granted pursuant to one or more access agreements (collectively, the “Access Agreements”) in a form substantially similar to the access agreement attached hereto as Exhibit J or as negotiated with third parties not Affiliates of or related to any Party.

22. FORCE MAJEURE. Seller and/or SCFE, as applicable, and the District shall be relieved from the performance of obligations and granted additional time for exercise of rights that cannot be performed due to the occurrence of a Force Majeure. The affected Party shall give notice of the occurrence of a Force Majeure to the other Party describing therein the nature and extent of the obligations and/or rights affected thereby and providing an estimate of the time to resume performance. The affected Party shall thereafter use diligent efforts to overcome, cure, remove, otherwise correct, mitigate and remedy the damages, delays and effects of the Force Majeure and shall provide periodic notice of the status of such efforts to the other Party. Unless otherwise expressly provided herein, the affected Party’s sole relief hereunder for a Force Majeure shall be an extension of time in which to resume performance of the affected obligations or resume exercise of affected rights. The affected Party will not be relieved from the performance of other obligations not affected by the Force Majeure and shall notify the other Party when it has resumed performance of the affected obligations.

23. MEMORANDUM OF AGREEMENT. From and after the Effective Date, a memorandum of this Agreement (the “Memorandum”) may be filed and/or recorded by the District against the Relocation Area, the Railroad System and the Option Property Railroad System. A Memorandum of this Agreement may only be filed and/or recorded against the Relocation Corridor from and after the acquisition of the North/Central Property by the District pursuant to the ASP. The Memorandum shall be recorded against the Option Property Railroad System solely for the purpose of providing notice to future owners of the Option Property Railroad System that this Agreement may become binding against all or any portions of the Option Property Railroad System that are the subject of a Notice of Intent initially issued by the District during the Option Period in accordance with Section 15(d). The Memorandum shall be substantially in the form and having the substance of the document attached hereto as Exhibit L. To the extent that: (a) all or a portion of the Railroad System is relocated pursuant to the terms of this Agreement; (b) the District acquires all or any portion of the Option Property in the exercise of its rights under the ASP or this Agreement; or (c) the Option Property Railroad System is modified or expanded within the boundaries of the Option Property, then the Memorandum and the applicable exhibits to this Agreement shall be amended by the parties hereto: (i) with respect to clause (a) above, to include the new portion of the relocated portion of the Railroad System; (ii) with respect to clause (b) above, to include the acquired Option Property as “District Property” hereunder; and (iii) with respect to clause (c) above, to include the modified or expanded portions of the Option Property Railroad System and release the Memorandum from the portions of the Option Property Railroad System that no longer have any track thereon. In the event and to the extent the rights, obligations and interests under this Agreement as evidenced in the Memorandum expire or change, the Parties agree to execute recordable confirmation of such changes upon the written request of any Party. Subject to the

District's right to record the Memorandum and any amendments to the Memorandum intended for recording as expressly provided herein, the Parties agree that in no event shall this Agreement be recorded in the public records and any such recording shall be deemed to be an immediate default under Section 19 hereof without the requirement of providing any notice or grace periods thereunder.

24. RELOCATION COMMITTEE. The Relocation Committee shall coordinate the activities of the Parties relating to Inspections and the Completion of the New Track System as specifically provided in this Agreement. Seller and SCFE and the District shall provide reports, schedules, budgets, summaries, test results, inspection findings and other information, documents and data requested by the Relocation Committee to perform its functions. At the first meeting of the Relocation Committee, and thereafter as the Relocation Committee members so determine, the Relocation Committee members shall establish, amend or modify rules of order and other administrative procedures to schedule, conduct and record Relocation Committee meetings and consider matters brought before the Relocation Committee. The Relocation Committee shall meet at least monthly prior to Completion and also upon the request of a Party to review the status of the relocation activities, identify potential delays and address other matters concerning or affecting the schedule or cost of performance of relocation activities. The District and the Railroad Owners shall each bear the costs, expenses and fees associated with the participation of its respective project manager in the Relocation Committee and the District shall bear the cost of Railroad Owner's contractor's and consultant's participation in meetings except to the extent such costs are Railroad Owner Expenses.

25. INSURANCE. Prior to Railroad Owner or any of its contractors or consultants obtaining access to any proposed New Track Location for any Inspection or thereafter in connection with the monitoring of construction of the New Track, Railroad Owner shall provide to the District for its approval a certificate(s) of insurance for all insurance coverages required to be provided by Railroad Owner and its contractors and consultants by the District, indicating the producer, insured party, carrier's name, and BEST rating, policy numbers and effective and expiration dates of each type of coverage required. The certificates of insurance shall be signed by the insurance carrier's authorized representative and shall identify the District as added insured and shall be maintained by the Railroad Owner until the New Track Location parcel is transferred to the Railroad Owner. All insurers must be qualified to lawfully conduct business in the State of Florida. Failure of the District to notify Railroad Owner that the certificate of insurance does not meet the requirements of this Agreement shall not constitute a waiver of Railroad Owner's responsibility to meet the stated requirement. In addition, receipt and acceptance of the certificate of insurance by the District shall not relieve Railroad Owner from responsibility for adhering to the insurance limits and conditions of insurance required within this Agreement. Policy premiums paid by Railroad Owner which are incrementally attributable to the Railroad Owner's performance of its obligations hereunder and which are identified in a Relocation Budget shall be Relocation Expenses.

26. RECORDS.

(a) Maintenance of Records. Railroad Owner shall maintain all financial and non-financial records and reports directly or indirectly related to performance of this Agreement for which Railroad Owner submitted Requisitions for reimbursement by the District of

Relocation Expenses, including supporting documentation therefore, including records relating to service rates, expenses, research or reports. Such records shall be maintained and made available for inspection for a period of five (5) years from completing performance and receiving final payment for work relating to a Project under this Agreement in connection with which Railroad Owner submitted Requisitions for reimbursement of Relocation Expenses.

(b) Examination of Records. The District or its designated agent shall have the right to examine in accordance with generally accepted governmental auditing standards all records (except records relating to services provided by legal counsel subject to the attorney-client privilege) directly or indirectly related costs or expenses paid or reimbursed to Railroad Owner as Relocation Expenses. Such examination may be made only within five (5) years from the date of final payment for work related to a Project under this Agreement in connection with which Railroad Owner incurred Relocation Expenses and upon reasonable notice, time and place.

(c) Audit Findings. In the event the District exercises its right hereunder to audit Railroad Owner's financial and accounting records relating to Relocation Expenses within a period of five (5) years following the completion of work relating to a Project or termination date of this Agreement and such audit results in the proper disallowance of any reimbursements paid by the District to Railroad Owner based on the auditor's finding(s), Railroad Owner shall be obligated to refund the District for such disallowance(s) (plus interest accrued thereon at the Interest Rate) upon demand. At its option, the District shall also have the right to reduce payments due to Railroad Owner under this Agreement by the amount of any disallowance (plus interest accrued thereon at the Interest Rate) resulting from audits conducted under this Agreement.

(d) Applicability to Authorized Agents. In the event that Railroad Owner contracts with any Person for services related to the exercise of its rights and performance of its obligations hereunder, Railroad Owner hereby agrees to include in any agreement, or other such contract a provision requiring vendor, consultant, agent and/or subcontractor to agree to the same requirement for records retention, inspection and audit rights as set forth herein.

(e) Public Access. Railroad Owner shall allow public access to all project documents and materials in accordance with the provisions of Chapter 119, Florida Statutes, all as to the extent the same is applicable to Railroad Owner. Should Railroad Owner assert any exemptions to the requirements of Chapter 119 and related Statutes, the burden of establishing such exemption, by way of injunctive or other relief as provided by law, shall be upon Railroad Owner at its cost and expense.

(f) Extended Retention of Records for Legal Disputes. In the event that the District should become involved in a legal dispute with a third party arising from performance under this Agreement, Seller and SCFE shall upon receipt of notice from the District preserve and retain all records described in such notice which are in the possession and reasonable control of each of them relating to this Agreement until the final disposition of the legal dispute.

**[REMAINDER OF PAGE INTENTIONALLY BLANK – SIGNATURE PAGE(S)
FOLLOW]**

IN WITNESS WHEREOF, the Parties have caused this Track Relocation Agreement to be executed as of the date above.

Signed, sealed and delivered in the Presence of:

USSC:

Print Name: _____
Witness: _____

UNITED STATES SUGAR CORPORATION,
a Delaware corporation

By: _____
Print Name: _____
Its: _____

Print Name: _____
Witness _____

Signed, sealed and delivered in the Presence of:

SCFE

Print Name: _____
Witness: _____

SOUTH CENTRAL FLORIDA EXPRESS,
INC., a Florida corporation

By: _____
Print Name: _____
Its _____

Print Name: _____

Witness _____

Signed, sealed and delivered in the Presence of:

SBG

Print Name: _____
Witness: _____

SBG FARMS, INC., a Florida corporation

By: _____
Print Name: _____
Its _____

Print Name: _____

Witness _____

Signed, sealed and delivered in the
Presence of:

SGGC

SOUTHERN GARDENS GROVES
CORPORATION, a Florida corporation

Print Name:_____

Witness:_____

By:_____

Print Name:_____

Print Name:_____

Its_____

Witness_____

Signed, sealed and delivered in the
Presence of:

DISTRICT:

SOUTH FLORIDA WATER MANAGEMENT
DISTRICT, a public corporation created under
Chapter 373 of the Florida Statutes

Print Name:_____

Witness:_____

By:_____

Print Name:_____

Print Name:_____

Witness_____

Its_____

EXHIBIT A
DISTRICT PROPERTY

[SEE LEGAL DESCRIPTION ATTACHED HERETO]

[To be attached at Closing]

As of the Effective Date, the District Property consists of the real property described in this Exhibit A. This Exhibit A will be modified upon acquisition by the District of all or any portion of the Option Property pursuant to the exercise of its rights under the ASP.

EXHIBIT B

USSC RAILROAD SYSTEM

That portion of United States Sugar Corporation's Railroad Corridor as described in Official Record Book 23180, Page 854 of the Public Records of Palm Beach County, Florida that is within the South Florida Water Management District's acquisition parcel SC-200-008, also known as the L-8 Parcel beginning at Station 2495+29.24 of said Railroad Corridor as shown on page 906 of said Record Book 23180 and ending at Station 2823+60.41 as shown on page 910 of said Record Book 23180.

As of the Effective Date, the real property upon which the USSC Railroad System is located consists of the real property described in this Exhibit B. This Exhibit B will be modified upon acquisition by the District of all or any portion of the Option Property pursuant to the exercise of its rights under the ASP to include railroad system of USSC located within the perimeter boundaries of the acquired Option Property.

EXHIBIT C

SCFE RAILROAD SYSTEM

As of the Effective Date, there is no the real property upon which the SCFE Railroad System is located. This Exhibit C will be modified upon acquisition by the District of all or any portion of the Option Property pursuant to the exercise of its rights under the ASP to include railroad system of SCFE located within the perimeter boundaries of the acquired Option Property.

EXHIBIT D

RELOCATION AREA

[SEE LEGAL DESCRIPTION of L-8 PROPERTY ATTACHED HERETO]

[To be attached at Closing]

As of the Effective Date, the Relocation Area consists of the real property described in this Exhibit D. This Exhibit D will be modified upon acquisition by the District pursuant to the exercise of its rights under the ASP of all or any portion of the Option Property through which Railroad System exists as of the time of such acquisition.

EXHIBIT E

Intentionally Deleted

EXHIBIT F

Intentionally Deleted

EXHIBIT G

INVOICE REQUIREMENTS

Listed below are the types of documentation and examples of the minimum requirements for documentation to support Railroad Owner's Relocation Expense reimbursement requests which are subject to change from time to time to conform with the District's rules, regulations, policies and procedures.

INVOICE REQUIREMENTS

All requests for payments must be submitted in the form of an invoice. The following requirements apply to all invoices submitted for payment.

- Invoices for contracts paid on a reimbursement basis must be supported by deliverable documentation that clearly reflects the services/deliverables provided during the invoice period.
- Supporting documentation must be arranged in the same order as listed on the invoice.
- Acronyms and non-standard abbreviations for charges should not be used in the supporting documentation unless an explanation is also included.
- Invoices must clearly show 100% of the actual costs incurred during the invoice period specified.
- Costs associated with construction monitors and other contractors for which Railroad Owner seeks reimbursement must be listed separately and will only be reimbursed if there is evidence that the invoices of such construction monitor or other contractors have been paid.

SUPPORTING DOCUMENTATION

Supporting documentation for each amount for which reimbursement is being claimed must indicate that the item has been paid. Check numbers may be provided in lieu of copies of actual checks. Each piece of documentation should clearly reflect the dates of service. Only expenditures authorized by the contract shall be reimbursed.

If the District approves a construction monitor contract or other agreement pursuant to this Agreement that requires payments on a time and material basis, unit price basis or some method other than percentage of work completed pursuant to a fixed price, lump sum agreement, Railroad Owner shall be required to submit documentation and proof required by the District, which may include without limitation the following types of documentation and examples of the minimum requirements for each type:

- Salaries: A payroll register or similar documentation should be maintained. The payroll register should show gross salary charges, fringe benefits, other deductions and net pay. If an individual for whom reimbursement is being claimed is paid by the hour and the contract already specifies the agreed upon hourly rate, a document reflecting the hours worked times

the rate of pay will be acceptable. Personal information (i.e. social security numbers) should be redacted.

- Fringe Benefits: Fringe Benefits should be supported by invoices showing the amount paid on behalf of the contractor's employee, e.g., insurance premiums paid. If the contract specifically states that fringe benefits will be based on a specified percentage rather than the actual cost of fringe benefits, then the calculation for the fringe benefit amount must be shown.
- Travel: Reimbursement for travel must be in accordance with Section 112.061, F.S., which includes submission of the claim on the District approved travel voucher or comparable form along with copies of all receipts.
- Other Direct Costs: Reimbursement will be made based on paid invoices/receipts which includes copies of invoices from subcontractor/vendors and evidence of payment.
- In-house charges: Contractor's charges which may be of an internal nature excluding personal services (e.g., postage, copies, etc.) may be reimbursed based on a usage log which shows the quantity times the rate being charged. The rates must be reasonable.
- Indirect costs: If the contract specifies that indirect costs will be paid based on a specified rate, then the calculation should be provided.

EXHIBIT H

USSC OPTION PROPERTY RAILROAD SYSTEM

[SEE LEGAL DESCRIPTION ATTACHED HERETO]

As of the Effective Date, the USSC Option Property Railroad System consists of the real property described in this Exhibit H. This Exhibit H will be modified to remove those portions of the USSC Option Property Railroad System which become “USSC Railroad System” hereunder pursuant to the terms of this Agreement.

USSC RAILROAD CORRIDOR LESS L-8 PARCEL SC-200-008 REACH

United States Sugar Railroad Corridor as according to Official Record Book 797, page 1101 of the Public Records of Hendry County, Florida and also recorded in Official Record Book 23180, page 854 of the Public Records of Palm Beach County, Florida

LESS AND EXCEPT

That portion of said United States Sugar Corporation Railroad Corridor as described in Official Record Book 23180, Page 854 of the Public Records of Palm Beach County, Florida that is within the South Florida Water Management District's acquisition parcel SC-200-008, also known as the L-8 Parcel. Said L-8 Parcel more specifically begins at Station 2495+29.24 of said Railroad Corridor as shown on page 906 of said Record Book 23180 and ends at Station 2823+60.41 as shown on page 910 of said Record Book 23180.

USSC RAILROAD CORRIDOR SHOWN IN RED IN OPTION LANDS

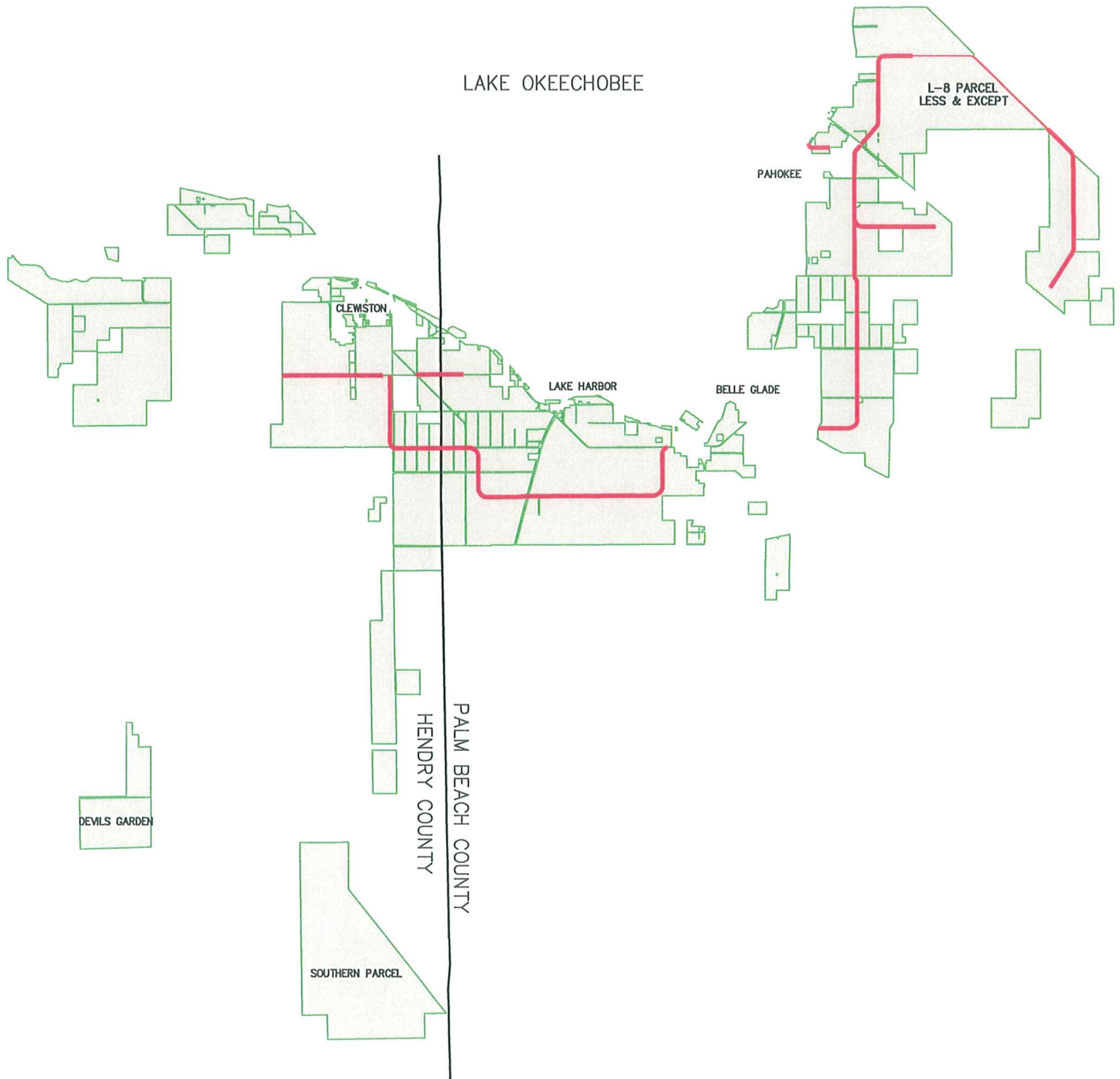


EXHIBIT I

SCFE OPTION PROPERTY RAILROAD SYSTEM

[SEE LEGAL DESCRIPTION ATTACHED HERETO]

As of the Effective Date, the SCFE Option Property Railroad System consists of the real property described in this Exhibit I. This Exhibit I will be modified to remove those portions of the SCFE Option Property Railroad System which become “SCFE Railroad System” hereunder pursuant to the terms of this Agreement.

SCFE RR DESCRIPTION IN GLADES COUNTY

That portion of Parcel 2 of the South Central Florida Express Railroad Right-of-Way as according to the deed recorded in Official Record Book 150, page 607 of the Public records of Glades County, Florida lying in Sections 19 through 29, Township 42 South, Range 33 East, Glades County, Florida;

Beginning at Mile Post AVD 936.49 near the north line of said Section 19, and Terminating at Mile Post AVD 941.76 on the south line of the north half of the north half of said Section 25.

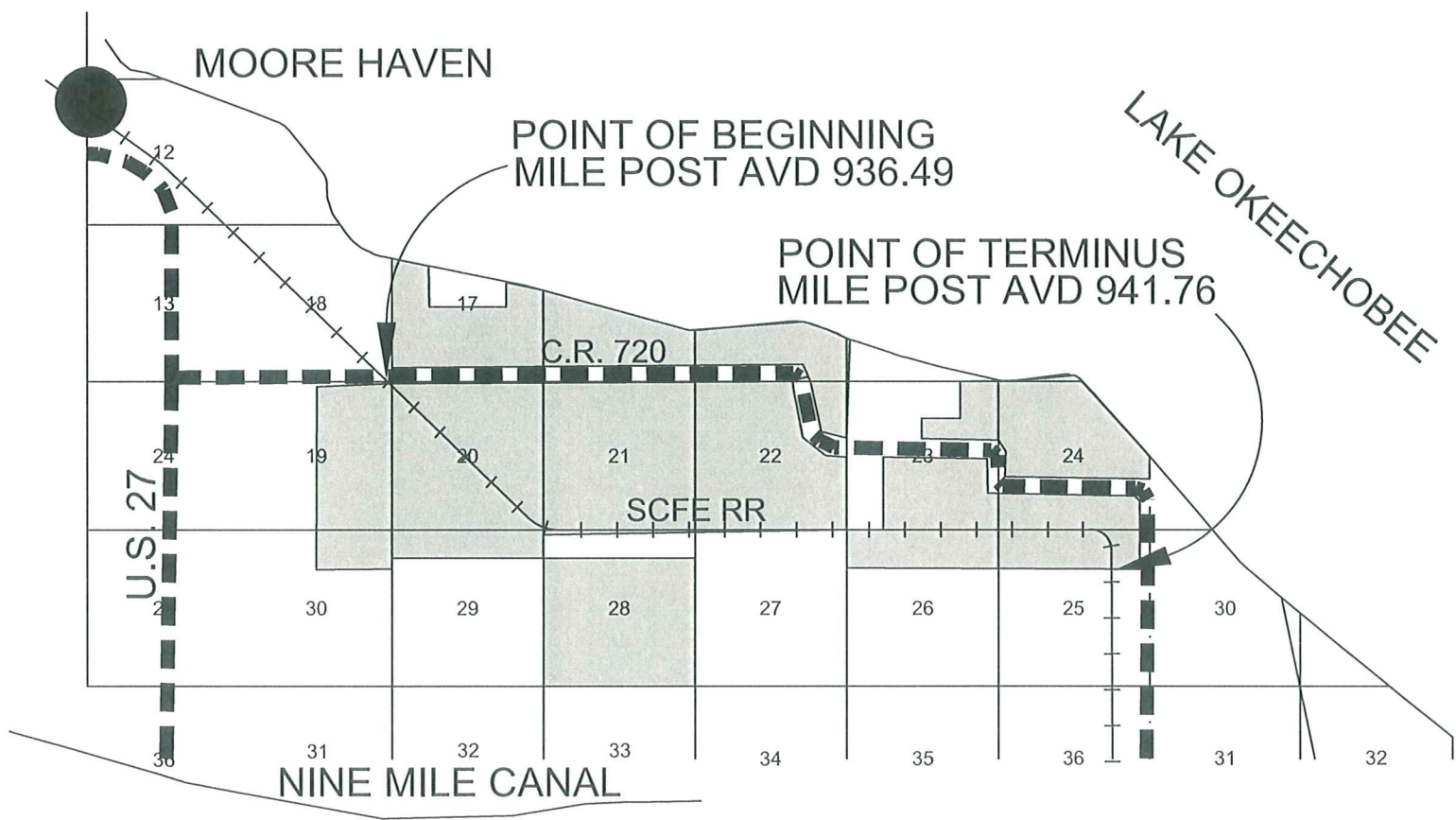
SCFE RR DESCRIPTION IN HENDRY AND PALM BEACH COUNTIES

That portion of Parcel 3 and Parcel 4 of the South Central Florida Express Railroad Right-of-Way as according to the deed recorded in Official Record Book 515, page 1570 of the Public Records of Hendry County, Florida and recorded in Official Record Book 8480, page 683 of the Public Records of Palm Beach County, Florida, lying in Sections 7, 8, 15, 16, 17, 22, 23, 25, 26, 35, and 36, Township 43 South, Range 34 E, Hendry County, Florida. Section 31, Township 43 South, Range 35 East, and Sections 2, 3, 4, 5, 6, 7, 8, 17, 18, 19, 20, 29, 30, 31, and 32, Township 44 South, Range 35 East, Palm Beach County, Florida.

Beginning at Mile Post AVD 944.22 near the west line of Section 7, Township 43 South, Range 34 East, and having two Points of Terminus, one at Mile Post AVD 958.01 on the Miami Canal Extension Branch, and the other at Mile Post 959.48 on the Okeelanta Branch.

All Mile Post stations are based on the original Moore Haven and Clewiston Railway Co. Right-of-Way and Tract Map, dated September 1921; the Atlantic Coast Line Right-of-Way and Track Map, Miami Canal Extension, dated April and May 1929; Atlantic Coast Line R.R. Co. Right-of-Way and Track Map, Okeelanta Extension, dated August 1956. Said maps are attested to in an affidavit by Orvell Howard, PLS as recorded in Official Record Book 22430, page 907 of the Public Records of Palm Beach County, Florida.

SCFE RR IN GLADES COUNTY, FLORIDA



POINT OF BEGINNING
MILE POST AVD 944.22

~~CLEWISTON~~

U.S. 27

SCFE	RR
------	----

U.S. 27
19

LAKE HARBOR

SCFE RR

POINT OF TERMINUS	
MILE POST AVD 958.01 -	
LAKE HARBOR BRANCH	

L-1

L-1 E

ROGERS RD.

USSC

BOLLES CANAL

POINT OF TERMINUS
MILE POST AVD 959.48
OKEELANTA BRANCH

ERG ROAD

HENDRY COUNTY
PALM BEACH COUNTY

EXHIBIT J

MAP OF NORTH/CENTRAL PROPERTY

*North/Central Property is depicted as the lands shaded in green in the blue box below.

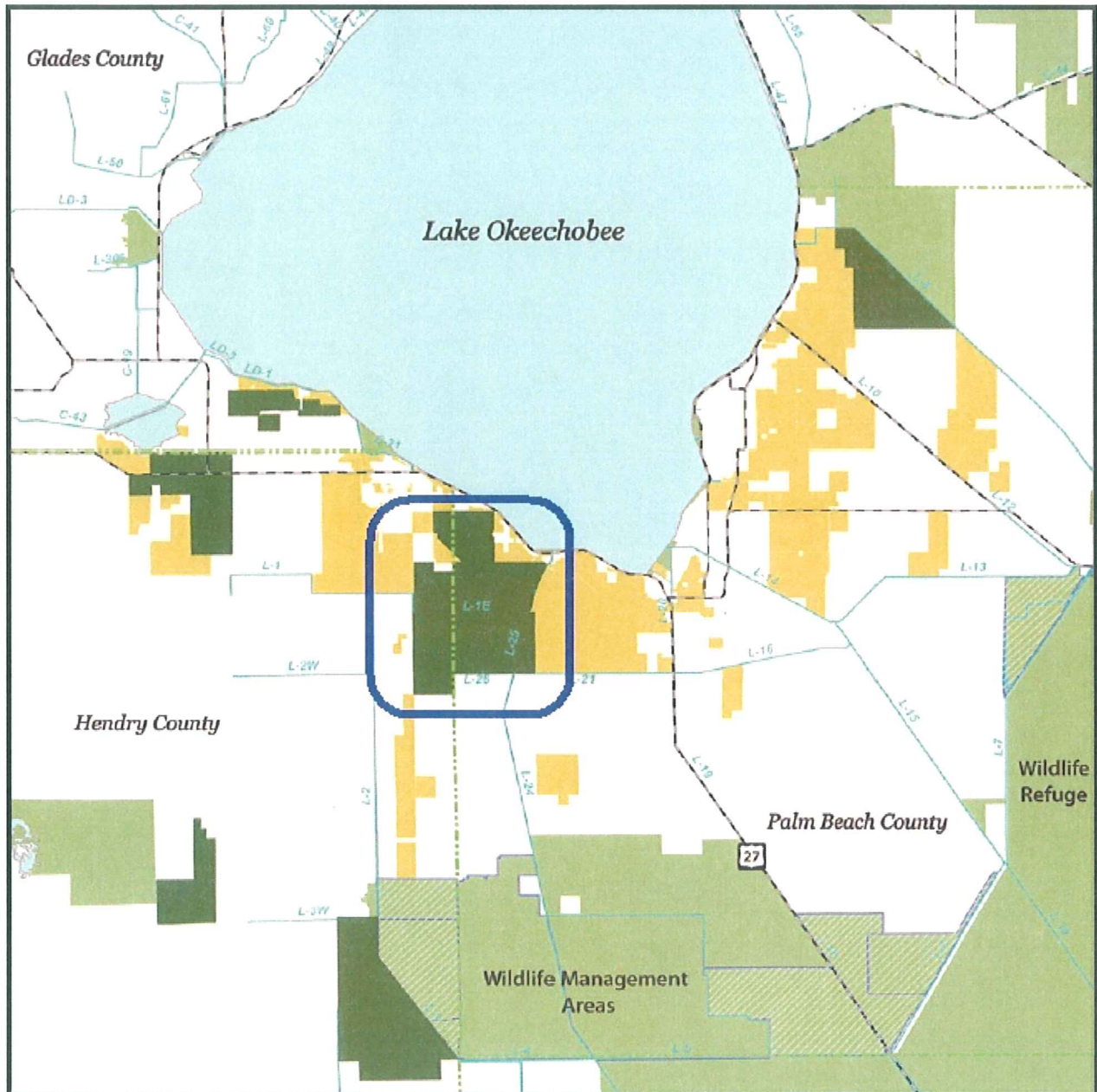


EXHIBIT K

ACCESS AGREEMENT(S)

RIGHT OF ENTRY/LICENSE AGREEMENT (District as Grantor)

This **Right of Entry/License Agreement** ("Agreement") is entered into as of the ____ date of _____, 20__, by and between the **SOUTH FLORIDA WATER MANAGEMENT DISTRICT**, a public corporation of the State of Florida (hereinafter referred to as "SFWMD") and _____ (hereinafter referred to as "Grantee").

WHEREAS, United States Sugar Corporation, a Delaware corporation ("USSC"), SBG Farms, Inc., a Florida corporation ("SBG"), Southern Gardens Groves Corporation, a Florida corporation ("SGGC", and individually and collectively and jointly and severally with USSC and SBG, "Seller"), South Central Florida Express, Inc., a Florida corporation, and SFWMD are parties to that certain Railroad Relocation Agreement made as of the ____ day of _____, 2010 (as it may be amended in accordance with its terms, the "Railroad Relocation Agreement");

WHEREAS, the Grantee desires to enter certain property comprising approximately ____ acres, more or less, owned by SFWMD and identified by SFWMD as Tract Number _____ or to which SFWMD has access and use rights, which property is more particularly described on the Exhibit "A" attached hereto and incorporated herein by reference (hereinafter referred to as the "Premises"), in order to conduct Inspections (as such term is defined herein) on the Premises subject to the terms and conditions hereof and of **Section 3(b)** of the Railroad Relocation Agreement; and

WHEREAS, SFWMD is willing to grant to the Grantee a time and scope limited right of entry/license in order to perform Inspections on the Premises upon the terms, conditions and provisions set forth herein and in the Railroad Relocation Agreement.

NOW THEREFORE, for good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties agree as follows:

1. **Grant.** SFWMD hereby grants to Grantee a limited right of entry/license to enter the Premises commencing _____, 20__ (hereinafter referred to as the "Commencement Date"), and, unless sooner terminated pursuant to paragraph 2 below, terminating on _____ (which shall be at least 90 days following the Commencement Date) ("Termination Date"), for the purpose of conducting Inspections (as such term is defined in the Railroad Relocation Agreement). Grantee acknowledges and agrees that the scheduling of access to the Premises and the conduct of Inspections shall be scheduled and coordinated with the SFWMD through the Relocation Committee (as such term is defined in the Relocation Agreement). Grantee shall provide at least forty-eight (48) hours prior written notice to SFWMD requesting such access, which written request shall

specify the time and manner of such activities which are scheduled to occur during such access. SFWMD shall have the right to have a representative accompany Grantee, its agents, employees, or contractors during all such access or activities. All activities by or for the Grantee shall be conducted in such a manner so as (i) not to cause any lien or claim of lien to exist against the Premises, (ii) not to unreasonably interfere with the operation of the Premises and the business of SFWMD and its tenants and occupants; and (iii) at all times to comply with all of SFWMD's or its tenant's safety standards and requirements. The rights granted to Grantee in this Section 1 shall expire on the earlier of the Termination Date or the earlier termination of this Agreement in accordance with its terms.

2. Termination Right. Notwithstanding anything contained in this Agreement to the contrary, SFWMD and the Grantee shall each have the unilateral right to terminate this Agreement in connection with the withdrawal of a Notice of Intent with respect to the Premises, upon ten (10) days written notice to the other party.
3. Restoration. Grantee agrees that no later than the earlier of the Termination Date or the date which is ten (10) days after the earlier termination of this Agreement in accordance with Section 2, Grantee will restore any portion of the Premises disturbed by Grantee in connection with its Inspections to as near as reasonably practicable to the condition existing as of the Commencement Date.
4. Compliance. All activities of the Grantee conducted with respect to the Premises shall be in accordance and compliance with all federal, state and local laws, statutes, regulations, permits, and ordinances, including but not limited to all environmental laws and regulations.
5. Authorization. Each party represents and warrants to the other party that it has the right, power, legal capacity and authority to enter into and perform its obligations under this Agreement, and that this Agreement constitutes the valid and legally binding obligation of it enforceable in accordance with its terms.
6. Assignment. This Agreement may not be assigned or transferred without the prior written consent of SFWMD, which consent may be withheld by SFWMD in its sole and absolute discretion.
7. Notice: All notices, requests, consents and other communications required or permitted under this Agreement shall be in writing (including telex and telegraphic communications) and shall be (as elected by the person giving such notice) hand delivered by messenger or courier service, telecommunicated, or mailed (airmail if international) by registered or certified mail (postage prepaid), return receipt requested, or sent by any form of overnight mail, addressed to:

TO SFWMD:

Director of Real Estate Department

South Florida Water Management District
(MAILING ADDRESS:)
P.O.Box 24680
West Palm Beach, Florida 33416-4680

(OFFICE LOCATION:)
3301 Gun Club Road
West Palm Beach, Florida 33406

Fax (561)681-6233

TO Grantee:

Fax :

or to such other address as any party may designate by notice complying with the terms of this paragraph. Each such notice shall be deemed delivered (a) on the date delivered if by personal delivery; (b) on the date of transmission with confirmed receipt if by telex, telefax or other telegraphic method; (c) on the date upon which the return receipt is signed or delivery is refused or the notice is designated by the postal authorities as not deliverable, as the case may be, if mailed; and (d) one day after mailing by any form of nationally recognized overnight courier or delivery service.

8. No Warranty. SFWMD makes no warranties or representations as to its interest in the Premises, or that the Premises are safe or suitable for the purposes for which the Grantee is permitted to access the Premises under this Agreement.
9. Contractors. Any contractors, subcontractors, consultants and other third parties utilized by the Grantee in connection with activities undertaken in connection with this Agreement shall: (a) indemnify SFWMD, its Governing Board members, employees and agents for and defend and hold it and them harmless from and against any and all loss, damage, liability, causes of action, claims, and costs, including but not limited to reasonable attorney's fees and costs, incurred by SFWMD or any of them as a result of the negligent, willful or intentional acts or omissions of Grantee's contractors, consultants and third parties and any contractor's subcontractors in connection with any activities undertaken by them on the Premises during the term of this Agreement, and (b) obtain and provide to SFWMD evidence of comprehensive general liability insurance and auto liability insurance with minimum limits of coverage in the amount of \$3,000,000 per occurrence, bodily and property damage combined or evidence of self-insurance, and (c) list SFWMD as co-insured or additional insured under the liability insurance policy of such contractor, consultant or third person or contractor's subcontractor.
10. Intentionally Deleted.

11. Time of Essence. Time is of the essence with respect to every term, condition, and provision of this Agreement.
12. Amendment. This Agreement may only be modified or amended by written instrument executed by authorized representatives of each of the Grantee and SFWMD.
13. Waiver. Failures, delays or waivers to enforce any covenant, condition, term, or provision of this Agreement by the parties shall not operate as a discharge of or invalidate such covenant, condition, term, or provision, or impair the enforcement rights of the parties, nor shall it be construed as a waiver or relinquishment for the future enforcement of any such covenant, condition, term, provision, or right but the same shall remain in full force and effect.
14. Entire Agreement. This Agreement and those provisions of the Railroad Relocation Agreement relating to the conduction of Inspections state the entire understanding between the parties and supersede any written or oral representations, statements, negotiations, or agreements to the contrary.
15. Counterparts. This Agreement may be executed in multiple counterparts each of which shall be an original and all of which together shall constitute one and the same agreement.

IN WITNESS WHEREOF, the parties have executed their hands and seals on the day and year first above written.

WITNESSES

**SOUTH FLORIDA WATER
MANAGEMENT DISTRICT**

By: _____
Name: _____
Its: _____

Form Approved by:

South Florida Water Management District
Office of Counsel

WITNESSES

GRANTEE

By: _____
Name: _____
Its: _____

EXHIBIT K

ACCESS AGREEMENT(S) (Cont.)

RIGHT OF ENTRY/LICENSE AGREEMENT

(District as Grantee)

This **Right of Entry/License Agreement** ("Agreement") is entered into as of the ____ date of _____, 20__, by and between the **SOUTH FLORIDA WATER MANAGEMENT DISTRICT**, a public corporation of the State of Florida (hereinafter referred to as "Grantee") and _____ (hereinafter referred to as "Landowner").

WHEREAS, United States Sugar Corporation, a Delaware corporation ("USSC"), SBG Farms, Inc., a Florida corporation ("SBG"), Southern Gardens Groves Corporation, a Florida corporation ("SGGC", and individually and collectively and jointly and severally with USSC and SBG, "Seller"), South Central Florida Express, Inc., a Florida corporation, and Grantee are parties to that certain Railroad Relocation Agreement made as of the ____ day of _____, 2010 (as it may be amended in accordance with its terms, the "Railroad Relocation Agreement");

WHEREAS, the Grantee desires to enter certain property comprising approximately ____ acres, more or less, owned by Landowner and identified by Landowner as Tract Number _____, which property is more particularly described on the Exhibit "A" attached hereto and incorporated herein by reference (hereinafter referred to as the "Premises"), in order to conduct Inspections (as such term is defined herein) on the Premises subject to the terms and conditions hereof and of **Section 3(b)** of the Railroad Relocation Agreement; and

WHEREAS, Landowner is willing to grant to the Grantee a time and scope limited right of entry/license in order to perform Inspections on the Premises upon the terms, conditions and provisions set forth herein and in the Railroad Relocation Agreement.

NOW THEREFORE, for good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties agree as follows:

16. Grant. Landowner hereby grants to Grantee a limited right of entry/license to enter the Premises commencing _____, 20__ (hereinafter referred to as the "Commencement Date"), and, unless sooner terminated pursuant to paragraph 2 below, terminating on _____ (which shall be at least 90 days following the Commencement Date) ("Termination Date"), for the purpose of conducting Inspections (as such term is defined in the Railroad Relocation Agreement). Grantee acknowledges and agrees that the scheduling of access to the Premises and the conduct of Inspections shall be scheduled and coordinated with the Landowner through the Relocation Committee (as such term is

defined in the Relocation Agreement). Grantee shall provide at least forty-eight (48) hours prior written notice to Landowner requesting such access, which written request shall specify the time and manner of such activities which are scheduled to occur during such access. Landowner shall have the right to have a representative accompany Grantee, its agents, employees, or contractors during all such access or activities. All activities by or for the Grantee shall be conducted in such a manner so as (i) not to cause any lien or claim of lien to exist against the Premises, (ii) not to unreasonably interfere with the operation of the Premises and the business of Landowner and its tenants and occupants; and (iii) at all times to comply with all of Landowner's or its tenant's safety standards and requirements. The rights granted to Grantee in this Section 1 shall expire on the earlier of the Termination Date or the earlier termination of this Agreement in accordance with its terms.

17. Termination Right. Notwithstanding anything contained in this Agreement to the contrary, Grantee and the Landowner shall each have the unilateral right to terminate this Agreement in connection with the withdrawal of a Notice of Intent with respect to the Premises, upon ten (10) days written notice to the other party.
18. Restoration. Grantee agrees that no later than the earlier of the Termination Date or the date which is ten (10) days after the earlier termination of this Agreement in accordance with Section 2, Grantee will restore any portion of the Premises disturbed by Grantee in connection with its Inspections to as near as reasonably practicable to the condition existing as of the Commencement Date, subject to Section 10 below.
19. Compliance. All activities of the Grantee conducted with respect to the Premises shall be in accordance and compliance with all federal, state and local laws, statutes, regulations, permits, and ordinances, including but not limited to all environmental laws and regulations.
20. Authorization. Each party represents and warrants to the other party that it has the right, power, legal capacity and authority to enter into and perform its obligations under this Agreement, and that this Agreement constitutes the valid and legally binding obligation of it enforceable in accordance with its terms.
21. Assignment. This Agreement may not be assigned or transferred without the prior written consent of Landowner, which consent may be withheld by Landowner in its sole and absolute discretion.
22. Notice: All notices, requests, consents and other communications required or permitted under this Agreement shall be in writing (including telex and telegraphic communications) and shall be (as elected by the person giving such notice) hand delivered by messenger or courier service, telecommunicated, or mailed (airmail if international) by registered or certified mail (postage prepaid), return receipt requested, or sent by any form of overnight mail, addressed to:

TO Grantee:

Director of Real Estate Department
South Florida Water Management District
(MAILING ADDRESS:)

P.O.Box 24680
West Palm Beach, Florida 33416-4680

(OFFICE LOCATION:)

3301 Gun Club Road
West Palm Beach, Florida 33406

Fax (561)681-6233

TO Landowner:

Fax :

or to such other address as any party may designate by notice complying with the terms of this paragraph. Each such notice shall be deemed delivered (a) on the date delivered if by personal delivery; (b) on the date of transmission with confirmed receipt if by telex, telefax or other telegraphic method; (c) on the date upon which the return receipt is signed or delivery is refused or the notice is designated by the postal authorities as not deliverable, as the case may be, if mailed; and (d) one day after mailing by any form of nationally recognized overnight courier or delivery service.

23. No Warranty. Landowner makes no warranties or representations as to its interest in the Premises, or that the Premises are safe or suitable for the purposes for which the Grantee is permitted to access the Premises under this Agreement.
24. Contractors. Any contractors, subcontractors, consultants and other third parties utilized by the Grantee in connection with activities undertaken in connection with this Agreement shall: (a) indemnify Landowner, its shareholders, directors, employees and agents for and defend and hold it and them harmless from and against any and all loss, damage, liability, causes of action, claims, and costs, including but not limited to reasonable attorney's fees and costs, incurred by Landowner or any of them as a result of the negligent, willful or intentional acts or omissions of Grantee's contractors, consultants and third parties and any contractor's subcontractors in connection with any activities undertaken by them on the Premises during the term of this Agreement, and (b) obtain and provide to Landowner evidence of comprehensive general liability insurance and auto liability insurance with minimum limits of coverage in the amount of \$3,000,000 per occurrence, bodily and property damage combined or evidence of self-insurance and (c) list Landowner as co-insured or additional insured under the liability insurance policy of such contractor, consultant or third person or contractor's subcontractor.

25. Liability. Grantee agrees to be responsible for: (x) any property damage that arises out of or is caused by Grantee or its officers, employees, contractors and agents while such persons or entities are acting within the proper scope of conducting Inspections of the Premises, provided that with respect to any damaged sugarcane crop, Landowner's exclusive remedy shall be limited to compensation from Grantee in the amount of \$2,400 per acre of damaged sugarcane crop, subject to proration where the damage is less than a full acre; (y) to the extent found legally responsible, any property damage that arises out of or is caused by Grantee or its officers, employees, contractors and agents while acting outside the proper scope of conducting inspections of, or accessing, the Premises (e.g., negligence); and (z) to the extent found legally responsible, any personal injury arising from Grantee's or its officers', employees', contractors' and agents' inspections of or access to the Premises. For the purposes hereof, the term "to the extent found legally responsible" shall be deemed to mean "to the extent that Grantee has the legal authority to agree to be responsible for the acts of its officers, employees, contractors and agents". Landowner acknowledges that Grantee has not made any representation or warranty to Landowner as to, nor has Grantee waived any right to claim that it does not have, legal authority to agree to the provisions of this Section 10. The provisions of this Section 10 shall survive the termination of this Agreement for a period of one (1) year.
26. Time of Essence. Time is of the essence with respect to every term, condition, and provision of this Agreement.
27. Amendment. This Agreement may only be modified or amended by written instrument executed by authorized representatives of each of the Grantee and Landowner.
28. Waiver. Failures, delays or waivers to enforce any covenant, condition, term, or provision of this Agreement by the parties shall not operate as a discharge of or invalidate such covenant, condition, term, or provision, or impair the enforcement rights of the parties, nor shall it be construed as a waiver or relinquishment for the future enforcement of any such covenant, condition, term, provision, or right but the same shall remain in full force and effect.
29. Entire Agreement. This Agreement and those provisions of the Railroad Relocation Agreement relating to the conduction of Inspections state the entire understanding between the parties and supersede any written or oral representations, statements, negotiations, or agreements to the contrary.
30. Counterparts. This Agreement may be executed in multiple counterparts each of which shall be an original and all of which together shall constitute one and the same agreement.

IN WITNESS WHEREOF, the parties have executed their hands and seals on the day and year first above written.

WITNESSES

SOUTH FLORIDA WATER
MANAGEMENT DISTRICT

By: _____
Name: _____
Its: _____

Form Approved by:

South Florida Water Management District
Office of Counsel

WITNESSES

LANDOWNER

By: _____
Name: _____
Its: _____

EXHIBIT L

FORM OF MEMORANDUM OF AGREEMENT

THIS INSTRUMENT PREPARED BY
AND AFTER RECORDING RETURN TO:

**MEMORANDUM OF AGREEMENT
(Concerning Track Relocation Agreement)**

THIS MEMORANDUM OF AGREEMENT (this "Memorandum") is dated as of _____, 2010 (the "Effective Date") among **UNITED STATES SUGAR CORPORATION**, a Delaware corporation ("USSC"), whose mailing address is _____, **SBG FARMS, INC.**, a Florida corporation ("SBG"), whose mailing address is _____, and **SOUTHERN GARDENS GROVES CORPORATION**, a Florida corporation ("SGGC"), whose mailing address is _____, and the **SOUTH CENTRAL FLORIDA EXPRESS, INC.**, a Florida corporation ("SCFE"), whose mailing address is _____, and the **SOUTH FLORIDA WATER MANAGEMENT DISTRICT**, a public corporation created under Chapter 373 of the Florida Statutes (the "District"), whose mailing address is _____. USSC, SBG, SGGC, SCFE and the District are collectively herein referred to as the "Parties".

The Parties hereby certify as follows:

1. USSC, SBG and SGGC (individually and collectively as the "Seller") and the District (as the "Buyer") have entered into that certain Second Amended and Restated Agreement for Sale and Purchase dated as of _____ (collectively, the "ASP") concerning the sale and purchase of certain lands of Seller as described therein and the granting to the Buyer certain purchase option rights and right of first refusal rights concerning certain "Option Property" of Seller as described therein. USSC and SCFE own certain railroad tracks and related real estate and assets which are adjacent to, but are excluded from, the lands which are to be conveyed or subjected to the option and right of first refusal rights under the ASP.

2. Pursuant to the ASP, the Parties have entered into that certain Track Relocation Agreement (the "Agreement"), dated as of _____, 2010, pursuant to which the Parties have agreed to terms and conditions pertaining to the District's right to cause the removal, relocation (except in certain circumstances) and conveyance of certain railroad systems owned

by USSC and by SCFE, inclusive of railroad tracks, real estate and improvements thereon, to allow for the construction of District projects over time. All capitalized terms used but not otherwise defined herein shall have the meanings assigned to the same in the Agreement.

3. Subject to and in accordance with the Agreement, the District's right to cause the removal, relocation (except in certain circumstances) and conveyance of railroad systems pertains to those portions of the railroad systems defined herein as the Railroad System.

4. "Relocation Area" means those portions of the lands acquired by the District pursuant to the ASP through which Railroad System exists as of the time of such acquisition, as amended over time to reflect the addition of any Option Property acquired by the District through the exercise of its rights under the ASP. The Relocation Area as it initially exists is described on Exhibit A attached hereto.

5. The portions of USSC's railroad system located within the perimeter boundaries of the Relocation Area, are collectively referred to as the "USSC Railroad System" and are currently located on and inclusive of the real property described on Exhibit B attached hereto.

6. As and to the extent the District acquires Option Property pursuant to its rights under the ASP, the portions of SCFE's railroad system located within the perimeter boundaries of the acquired Option Property which become Relocation Area under the Agreement shall be collectively referred to as the "SCFE Railroad System".

7. The USSC Railroad System and the SCFE Railroad System are collectively referred to as the "Railroad System" and each of USSC and SCFE area referred to as a "Railroad Owner".

8. The portions of USSC's railroad system located within the perimeter boundaries of the Option Property are collectively referred to as the "USSC Option Property Railroad System" and are currently located on and inclusive of the real property described as Exhibit C.

9. The portions of SCFE's railroad system located within the perimeter boundaries of the Option Property are collectively referred to as the "SCFE Option Property Railroad System" and are currently located on and inclusive of the real property described as Exhibit D.

10. The USSC Option Property Railroad System and the SCFE Option Property Railroad System are collectively referred to as the "Option Property Railroad System." As and to the extent the District acquires Option Property pursuant to its rights under the ASP, any portion of the Option Property Railroad System located within the perimeter boundaries of such acquired Option Property will become Railroad System in accordance with the Agreement.

11. As part of the title preservation covenants of the Agreement, in order to secure the District's right to acquire title to the railroad properties to be conveyed to the District pursuant to the Agreement without further encumbrance or degradation of title after the District elects to exercise its rights to cause a conveyance under the Agreement, the Agreement provides for the filing of a recorded notice and the creation of a lien in favor of the District on the pertinent

portion of the Railroad System. Such provision of the Agreement provides, in part, as follows:

"Lien Filing. Upon the issuance of a Notice of Intent identifying an Existing Railroad System, the District shall have the right to record in the county or counties in which such Existing Railroad System is located a notice of the pending removal and transfer of such Existing Railroad System pursuant to this Agreement (the "Recorded Notice of Removal"). Information set forth in the Recorded Notice of Removal shall include a description of the Existing Railroad System, reference to this Agreement, and notice that such recorded Notice of Removal shall establish a lien priority with respect to the Existing Railroad System in favor of the District in accordance with this Agreement. Railroad Owner agrees, grants and declares that the Existing Railroad System described in a Recorded Notice of Removal shall be imposed with a lien in favor of the District effective against all rights, claims, judgments and encumbrances, whether voluntary or involuntary, arising after the recording of the Recorded Notice of Removal. Such lien shall secure the District's right to acquire the Existing Railroad System free from further encumbrance by rights, claims, judgments or interests arising after the Recorded Notice of Removal. Railroad Owner agrees, upon the District's request, to promptly execute such instruments, in recordable form, as the District may reasonably request to be recorded in order to perfect such lien right.... Without limiting Railroad Owner's obligation to eliminate all Curable Title Defects, the District's lien shall be subordinate to any and all (i) mortgages, deeds of trust, trust indentures or other interests evidencing a security interest in the Existing Railroad System in favor of Railroad Owner's unaffiliated lenders as the same exist at the time of the recording of the Recorded Notice of Removal, and (ii) amendments, modifications, replacements or extensions thereof which may be entered into after the time of the recording of such Recorded Notice of Removal so long as the same does not increase the indebtedness secured thereby encumbering such Existing Railroad System. Without limiting the automatic effectiveness of the foregoing subordination, within forty-five (45) days after written request by Railroad Owner, the District hereby agrees to execute and deliver a subordination agreement, in form and substance reasonably acceptable to Railroad Owner and the District, evidencing such subordination. If at any time following the recording of a Recorded Notice of Removal the District's Notice of Intent for the applicable Existing Railroad System is rescinded, the District shall promptly release its lien by recording notice of such rescission of the Notice of Intent in the applicable public records."

12. The term of the Agreement expires thirty-five (35) years after the Effective Date of this Memorandum, subject to potential extension to allow for the completion of unfinished obligations in accordance with the Agreement. The binding effect of the Agreement on the various categories of property described herein is as follows:

- a. Binding Effect of the Agreement on the Railroad System. The obligations, covenants, agreements, duties and promises of the Parties under the Agreement shall benefit, be binding upon and run with the real property located within the

Railroad System.

- b. Binding Effect of the Agreement on the Option Property Railroad System. The Agreement shall only become binding upon all or a portion of the Option Property Railroad System to the extent that the District acquires any portion of the Option Property pursuant to the exercise of its rights under the ASP that is immediately adjacent to all or a portion of the Option Property Railroad System, in which event the Agreement shall only become binding upon the portion of the Option Property Railroad System that is immediately adjacent to the portion of the Option Property that has been acquired by the District pursuant to the exercise of its rights under the ASP. In such event, the foregoing shall be evidenced by an amendment to the Agreement and this Memorandum.
- c. Binding Effect of the Agreement on the Option Property. District hereby acknowledges and agrees that, with respect to all or any portions of the Option Property that has/have not been acquired by the District pursuant to the exercise of its rights under the ASP, the Agreement: (x) shall not confer any right, title or interest in all or such portions of the Option Property, and (y) shall not be deemed to encumber, run with or be binding all or such portions of the Option Property.

13. Without limiting the effectiveness of the provisions of Section 12 of this Memorandum, including, without limitation, subsections (b) and (c), the Agreement, as it relates to the Option Property Railroad System and the Option Property, shall at all times be subject and subordinate to: (x) any and all mortgages, deeds of trust, trust indentures, or other instruments evidencing a security interest upon the Option Property Railroad System and the Option Property, which may now or hereafter affect any portion of the Option Property Railroad System and the Option Property; (y) any other encumbrances or other matters that may be recorded against the Option Property Railroad System and the Option Property from and after the date hereof, subject to the applicable limitations and restrictions contained in the ASP and/or, the Agreement; and (z) all leases concerning the Option Property Railroad System and the Option Property, which may now or hereafter affect any portion of the Option Property Railroad System and the Option Property (whether of record or not), subject to the applicable limitations and restrictions contained in the ASP and/or the Agreement. Without limiting the automatic effectiveness of the foregoing subordination, within forty-five (45) days after written request by USSC, the District hereby agrees to execute and deliver a subordination agreement, in form and substance reasonably acceptable to USSC, Seller's lender (if applicable) and the District, evidencing such subordination. The foregoing subordination shall not limit Seller's or Railroad Owner's obligations to eliminate Curable Title Defects in connection with the acquisition by the District of a portion of the Railroad System.

14. The Parties enter into this Memorandum, which is to be recorded in the land record office of Hendry, Glades and Palm Beach Counties, Florida, so that third parties will have notice of the Agreement. This Memorandum shall not supersede or in any way modify the terms or conditions of the Agreement, or be used in interpreting the Agreement.

15. In the event and to the extent the rights, obligations and interests evidenced by

this Memorandum expire or change, the Parties agree to execute recordable confirmation of such changes upon the written request of any Party.

IN WITNESS WHEREOF, the Parties have caused this Memorandum to be executed as of the Effective Date.

[SIGNATURES TO FOLLOW ON SUBSEQUENT PAGES]

Signed, sealed and delivered in the
Presence of:

UNITED STATES SUGAR CORPORATION,
a Delaware corporation

Print Name: _____
Witness

By: _____
Print Name: _____
Its _____

Print Name: _____
Witness

STATE OF FLORIDA
COUNTY OF _____

The foregoing instrument was acknowledged before me this _____ day of
_____, 2010, by _____, as
_____ of United States Sugar Corporation, a Delaware corporation, _____
who is personally known or _____ who has produced
_____ as identification.

Printed Name: _____
Notary Public State of Florida at Large
My Commission Expires: _____
My Commission Number: _____

Signed, sealed and delivered in the
Presence of:

SBG FARMS, INC., a Florida corporation

Print Name: _____
Witness

By: _____
Print Name: _____
Its _____

Print Name: _____
Witness

STATE OF FLORIDA
COUNTY OF _____

The foregoing instrument was acknowledged before me this _____ day of _____, 2010, by _____, as _____ of SBG Farms, Inc., a Florida corporation, _____ who is personally known or _____ who has produced _____ as identification.

Printed Name: _____
Notary Public State of Florida at Large
My Commission Expires: _____
My Commission Number: _____

Signed, sealed and delivered in the
Presence of:

SOUTHERN GARDENS GROVES
CORPORATION, a Florida corporation

Print Name: _____
Witness

By: _____
Print Name: _____
Its _____

Print Name: _____
Witness

STATE OF FLORIDA
COUNTY OF _____

The foregoing instrument was acknowledged before me this _____ day of _____, 2010, by _____, as _____ of Southern Gardens Groves Corporation, a Florida corporation, _____ who is personally known or _____ who has produced _____ as identification.

Printed Name: _____
Notary Public State of Florida at Large
My Commission Expires: _____
My Commission Number: _____

Signed, sealed and delivered in the
Presence of:

SOUTH CENTRAL FLORIDA EXPRESS,
INC., a Florida corporation

Print Name: _____
Witness

By: _____
Print Name: _____
Its _____

Print Name: _____
Witness

STATE OF FLORIDA
COUNTY OF _____

The foregoing instrument was acknowledged before me this _____ day of _____, 2010, by _____, as _____ of South Central Florida Express, Inc., a Florida corporation, _____ who is personally known or _____ who has produced _____ as identification.

Printed Name: _____
Notary Public State of Florida at Large
My Commission Expires: _____
My Commission Number: _____

Signed, sealed and delivered in the
Presence of:

Print Name: _____
Witness

SOUTH FLORIDA WATER
MANAGEMENT
DISTRICT, a public corporation created under
Chapter 373 of the Florida Statutes

Print Name: _____
Witness

By: _____
Print Name: _____
Its _____

STATE OF FLORIDA
COUNTY OF _____

The foregoing instrument was acknowledged before me this ____ day of _____, 2010, by _____, as _____ of South Florida Water Management District, a public corporation created under Chapter 373 of the Florida Statutes, ____ who is personally known or ____ who has produced _____ as identification.

Printed Name: _____
Notary Public State of Florida at Large
My Commission Expires: _____
My Commission Number: _____

Exhibit A to Memorandum of Agreement
Relocation Area

[To be attached at Closing]

Exhibit B to Memorandum of Agreement
USSC Railroad System

Exhibit C to Memorandum of Agreement
USSC Option Property Railroad System

[To be attached at Closing]

Exhibit D to Memorandum of Agreement
SCFE Option Property Railroad System

[To be attached at Closing]